

EXHIBIT C

In the Matter Of:

Larball v Dua Lipa

22-cv-1872

BARBARA SALANI

January 19, 2024



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BARBARA SALANI
Larball v Dua Lipa

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1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 LARBALL PUBLISHING COMPANY, INC.
and SANDY LINZER PRODUCTIONS, INC.,

5 Plaintiffs,

Case No.

6 v.

22-cv-1872

7 DUA LIPA, JONATHAN LYNDALÉ KIRK
8 ("DA BABY") D/B/A BABY JESUS
9 PUBLISHING, BOSCO KANTE, CLARENCE
COFFEE, JR., SARAH HUDSON, STEPHEN
KOZMENIUK, EMI MUSIC PUBLISHING LTD.,
SONY MUSIC PUBLISHING (US) LLC,
UNIVERSAL MUSIC CORPORATION, and
WARNER MUSIC CORP.,

10 Defendants.

11 -----x

12 VIDEOTAPED DEPOSITION

13 OF

14 BARBARA SALANI

15 Friday, January 19, 2024

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20
21
22 Reported by:
23 Frank J. Bas, RPR
24 JOB NO. J10764534
25

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10:22 a.m.

Videotaped Deposition of BARBARA
SALANI, at the offices of MITCHELL SILBERBERG
& KNUPP, LLP, 437 Madison Avenue, 25th Floor,
New York, New York, before Frank J. Bas, a
Registered Professional Reporter, Certified
Realtime Reporter and Notary Public within and
for the State of New York.

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ALSO PRESENT:

Silvio Facchin, Videographer

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2 THE VIDEOGRAPHER: This is the
3 media labeled number 1 in the
4 video-recorded deposition of Barbara
5 Salani in the matter of Larball
6 Publishing Company, Inc., et al., versus
7 Dua Lipa, et al. This deposition is
8 being taken in New York City, New York,
9 on January 19, 2024.

10 My name is Silvio Facchin. I am a
11 certified legal video specialist, the
12 court reporter is Frank Bas, and we're
13 both representing Esquire Deposition
14 Solutions.

15 We're now going on the record. The
16 time is 10:22 a.m.

17 Counsel would state their
18 appearances for the record, please.

19 MR. BROWN: Good morning,
20 everyone. I'm attorney Jason T. Brown,
21 with Eric Sands and Pat Almonrode, from
22 Brown, LLC, for the plaintiffs.

23 MS. LEPERA: And with you today,
24 your colleagues?

25 THE COURT REPORTER: I didn't

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2 catch it.

3 MR. SANDS: Eric Sands from Brown,
4 LLC.

5 MR. ALMONRODE: Pat Almonrode,
6 A-L-M-O-N-R-O-D-E, Brown, LLC.

7 MS. LEPERA: Christine Lepera,
8 Mitchell Silberberg & Knupp, counsel for
9 the defendants.

10 MS. NGUYEN: Elaine Nguyen, also
11 with Mitchell Silberberg & Knupp,
12 counsel for defendants.

13 MR. MULLINS: Bradley Mullins, also
14 for defendants.

15 MS. LEPERA: There is
16 another lawyer who is appearing by Zoom,
17 James Berkeley from our LA office, also
18 with Mitchell, also counsel for the
19 defense.

20 THE VIDEOGRAPHER: Okay? I think
21 we have everyone's appearances.

22 Will the court reporter please
23 swear in the witness.

24 - - -
25

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B. SALANI

BARBARA SALANI,
called as a witness, having been first duly
sworn by a Notary Public, was examined and
testified as follows:

EXAMINATION BY

MS. LEPERA:

Q. Good morning.

A. Good morning.

Q. Do you go by Ms. Salani?

A. I go by Ms. Salani, yes.

Q. M-S?

A. Yes.

Q. Okay, very good. Is English your
second language?

A. Yes.

Q. Okay. Are you fluent sufficiently
so that you believe you can fully and
completely understand my questions and answer
them?

A. Yes, I am.

Q. Very good.

Have you ever gone by any names
other than Barbara Salani?

A. No.

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2 Q. Okay. Have you ever had your
3 deposition taken before?

4 A. No.

5 Q. Okay. So let me give you a couple
6 of rules of how this works in process, and you
7 can certainly ask me any questions about the
8 procedure.

9 A. Yes.

10 Q. So we are here today in a case you
11 heard where Mr. Brown's clients, the
12 plaintiffs, are suing my clients regarding
13 certain musical compositions.

14 Are you aware of that?

15 A. Yes, I am.

16 Q. Okay. And in the context of that,
17 you've been presented as an expert witness.

18 Are you aware of that?

19 A. Yes, I am.

20 Q. Okay. And in connection with your
21 role as an expert, as a proffered expert,
22 we're here to ask you a series of questions
23 concerning that matter.

24 Do you understand that?

25 A. Yes, I do.

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2 Q. Okay. So every question that I
3 ask, your counsel -- and you're represented by
4 counsel here today, I take it?

5 A. Mm-hmm.

6 Q. "Yes"?

7 A. Yes.

8 Q. One of the rules, one of the main
9 rules of deposition, is to answer audibly.

10 A. Mm-hmm.

11 Q. No gestures, no shaking the head
12 yes or no, because every single word is
13 transcribed by this gentleman here, and even
14 though we have a video of your deposition
15 testimony, we're making a record, so my
16 questions and then your answers should be
17 transcribed properly.

18 Is that understood?

19 A. Yes, it is.

20 Q. Okay.

21 A. Mm-hmm.

22 Q. You're also here under oath.

23 A. Yes.

24 Q. The court reporter just gave you
25 the oath, so that this is all under the

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2 penalties of perjury.

3 Do you understand that?

4 A. Yes.

5 Q. Okay.

6 A. I do.

7 Q. At any point in time if you need to
8 take a break, please let me know. We're happy
9 to accommodate.

10 I would appreciate, however, that
11 if I have a question that we call pending,
12 that I have out there for you to answer, you
13 see if you can answer the question first,
14 before taking a break.

15 Is that acceptable?

16 A. Yes.

17 Q. Okay. Is there anything that you
18 need to tell us that could prevent you from
19 giving your full and complete testimony here
20 today? Any health issue? Any issue with
21 respect to taking any medicine that might
22 affect your memory, please let us know.

23 A. Well, I did -- I do. I had a
24 problem this morning. I had an episode of
25 tachycardia and a very fast rhythmic of my

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2 heart. But I have my medicines, I took them,
3 and now it's stable. My heart rate went back
4 to normal.

5 Q. And this is a condition that you
6 have had before today?

7 A. Yes, it.

8 Q. Okay.

9 A. So I have my prescription
10 medicines, and I have them with me. Hopefully
11 it doesn't happen again.

12 Q. You are to certainly let us know if
13 there's anything that comes about, because we
14 don't want to put you in any kind of jeopardy
15 with respect to your health certainly.

16 A. Thank you.

17 Q. And is there any other medicine
18 that you're taking that could affect your
19 ability to testify here today --

20 A. No.

21 Q. -- other than the medicine for the
22 heart?

23 A. No.

24 Q. So back to my little rule about
25 this process.

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2 I have to ask my question fully
3 before you can answer it so he can get it all
4 down and then we don't step on each other. So
5 I will try not to interrupt you, and if you
6 can try, and I know it's not a natural
7 process, to not interrupt me.

8 A. Yes.

9 Q. Thank you.

10 A. I understand.

11 Q. At some point in time your counsel
12 may also, before you answer, want to make an
13 objection to certain questions that I pose.
14 So he should have an opportunity to do that
15 before you answer, if he chooses.

16 If he does not instruct you not to
17 answer -- in other words, if he just objects
18 but doesn't say, I'm instructing you not to
19 answer that question on certain grounds, which
20 I don't have to explain all the details, but
21 there's an answer that's due to my question
22 unless he instructs you to not answer and you
23 follow his instruction.

24 Do you understand that?

25 A. Yes, I do.

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2 Q. Okay, terrific. Okay.

3 So you've never been deposed
4 before, correct? This is the first time?

5 A. Yes.

6 Q. Okay. Have you ever been a party
7 to any litigations, either suing anyone or
8 being sued?

9 A. No.

10 Q. Okay. Have you ever testified as
11 an expert, even not in a deposition but in a
12 court or in any kind of other setting before?

13 A. No.

14 Q. Have you ever provided any expert
15 advice of any nature in any matter before?

16 A. No.

17 MS. LEPERA: I am going to mark as
18 Salani 1 a three-page document that --
19 do I have the folder? You've got the
20 folder. Did you give them a copy?

21 (Pause.)

22 (Salani Exhibit 1, Curriculum vitae
23 of Barbara Salani was marked for
24 identification.)

25 Q. Okay. We have marked for

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2 identification a three-page document,

3 Salani 1.

4 Ms. Salani, can you tell me what
5 this document represents?

6 A. This document represents my bio, my
7 life as a performer, as a teacher, and what I
8 have done during my life. Right?

9 Q. When did you prepare this bio?

10 A. Um, I prepared this bio when I
11 submitted my testimony report.

12 Q. Okay. Do you have any other bio
13 that you have prepared prior to this?

14 A. Yes, of course. I have many other
15 bios.

16 Q. Okay. And why didn't you use one
17 of those?

18 A. Well, because you have to update
19 according to where, you know, you are -- what
20 you are doing and what you have done. Things
21 change sometimes, so I updated it.

22 Q. So this is the most current --

23 A. Yes, this is the most current.

24 Q. This is the most current
25 information with respect to your background,

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2 is that correct?

3 A. Well, things are still going on.

4 Can I explain that?

5 Q. Sure.

6 A. Okay. I am still waiting to
7 discuss my thesis, because I'm working on the
8 thesis for the Ph.D. in comparative studies,
9 in musicology and Italian studies, language
10 and culture. I finished all the required
11 courses, and I'm in the process for the
12 discussion of my thesis. Okay?

13 Q. Okay. So what, if anything, would
14 you add to this résumé, based on what you just
15 said?

16 A. Well, that the Ph.D. in comparative
17 studies is in process.

18 Q. Is that any different than what --

19 A. Yes.

20 Q. -- it states here?

21 A. Well, it's -- that means that --
22 it's in progress, and it has not been
23 finished.

24 Q. Wasn't it in progress when you
25 drafted this document?

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2 A. Yes, it was in progress.

3 Q. Okay. So other than updating, is
4 there any information on any of your other
5 bios or curriculum vitae that we don't have
6 that differs from what's on here?

7 A. Everything is here; it's completed,
8 and it's fine.

9 Q. Do you understand, is there
10 anything in addition, that's not on here, on
11 your earlier bios?

12 A. No.

13 Q. Okay. Fair enough.
14 So looking at the "Education"
15 section of this document, it says that there's
16 a Ph.D. that you are taking in comparative
17 studies --

18 A. Mm-hmm.

19 Q. -- musicology, and Italian studies.
20 And then there's a date of May 2024.

21 A. Yes.

22 Q. Yes. Is that still the date that
23 you anticipate graduating from this program?

24 A. It depends on the committee.
25 Because sometimes they -- for one reason or

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2 another, they want to take their time, and it
3 may be completed in the following semester.

4 It depends.

5 Q. Okay.

6 A. I mean, I would be ready for that
7 date.

8 Q. Okay.

9 A. If they are ready with me.

10 Q. Okay. And we're going to come back
11 to that in a minute.

12 And below that -- and this is at
13 Florida Atlantic University in Boca Raton,
14 Florida, correct?

15 A. Yes.

16 Q. This Ph.D. program?

17 A. Mm-hmm.

18 Q. There's another program, or there's
19 another Florida Atlantic University degree
20 listed on your CV entitled "Master of Music in
21 Piano Performance."

22 Do you see that?

23 A. Yes.

24 Q. Okay. And that you obtained in
25 May of 2020, is that right?

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2 A. Exactly.

3 Q. And then between that entry and the
4 one below there's a gap of several -- there's
5 more than a decade.

6 Do you see that?

7 A. Yes.

8 Q. What were you doing then?

9 A. Okay. I was living in Italy, and I
10 had my two conservatories degrees. One I
11 received it in Venezuela, and the other one in
12 Italy. Because I moved from Venezuela to
13 Italy, so I wanted to have my studies
14 completed also in Italy. And this was the
15 reason why I -- once you have your degree you
16 start working. Right? I didn't -- I just
17 wanted to have this degree and then be able to
18 work as a professor teaching music and
19 music-related subjects.

20 Q. So between May of 1987 and
21 May 20 --

22 MS. LEPERA: Withdrawn.

23 Q. When did you move to the United
24 States?

25 A. Well, because of one of my sons

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2 wanted to come here in the States, and he was
3 a little one; he was only 14 years old. And I
4 felt that, you know, leaving him by himself
5 was not a good idea, so I -- I came to the
6 United States with him. And while he was
7 attending high school and college, I was
8 attending -- I started doing a new master's in
9 performance at Florida Atlantic University.

10 Q. Do you know what year this was,
11 that you moved?

12 A. When I --

13 Q. Moved to the United States?

14 A. When I moved to the United States
15 it was 2015.

16 Q. Okay. And did you move to Florida?

17 A. Yes. I moved to Boca Raton.

18 Q. So you've been in the same location
19 ever since you moved to the United States?

20 A. Yes.

21 Q. Okay. So going back to my earlier
22 question about what you were doing between
23 May 1987, when it states here you received a
24 diploma in piano performance from the Italian
25 Conservatory, and the degree that you got from

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2 Florida Atlantic University, what precisely
3 were you doing with your time in connection
4 with work?

5 A. Okay. Can I add that I had come
6 already to the United States, and I did a
7 bachelor of music in Philadelphia. That was
8 before I moved to Italy. Okay? So I had been
9 already here in the United States, and I had
10 completed my bachelor's before going to Italy.

11 And when I was -- I came here in
12 2015, I was working for the Symphony of the
13 Americas, who was my, um -- well, they gave me
14 a job, but at the same time I had an O-1 visa,
15 they supported me, and I was performing for
16 them, doing arrangements and lecturing for
17 their concert series. They were my sponsors.
18 Okay. That's the word I was looking for.
19 They were my sponsors. And thanks to them, I
20 could work here in the United States.

21 Q. Are you a citizen now?

22 A. Yes, I am.

23 Q. Congratulations.

24 A. Thank you.

25 Q. Do you get to keep both, dual

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2 citizenship?

3 A. Yes.

4 Q. Good for you. Okay.

5 So if I am understanding what
6 you're saying you were doing, you were
7 performing?

8 A. Mm-hmm.

9 Q. And you were giving concert
10 lectures?

11 A. Mm-hmm.

12 Q. In what subject or subjects?

13 A. Well, the subjects that they asked
14 me to. They had these concerts, and I had to
15 give lectures before the concerts for the
16 audience so that I could explain what was
17 going to happen during the concert. Okay? So
18 about the history of the composers and the
19 pieces that they were going to perform.

20 Q. Got it. Okay.

21 And then other than performing and
22 giving these lectures that you have described,
23 what, if any, other work did you do --

24 A. Arrangements.

25 Q. -- between the two degrees?

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2 MR. BROWN: Ma'am, if you can, let
3 her finish her question so then you're
4 accurately answering what she's saying,
5 please.

6 THE WITNESS: You're right. Sorry.

7 MS. LEPERA: That's okay. It
8 happens all the time.

9 THE WITNESS: I'm so sorry. Can
10 you repeat the question, please?

11 Q. Other than performing -- and when I
12 say "performing," you perform piano?

13 A. (Nodding head affirmatively.)

14 Q. Do you perform any other
15 instruments?

16 A. No.

17 Q. Have you ever studied any other
18 instruments?

19 A. No.

20 Q. Okay. And giving lectures that
21 you've described at these concert series,
22 what, if any, other work did you do between
23 May of 1987 and May of 2020, between those two
24 degrees?

25 A. May of 1987. Okay.

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2 Q. If it makes it easier, you can
3 expand the time frame from May of 1987 to
4 present.

5 What, if any, other work have you
6 done in any industry or capacity during that
7 period of time, other than what you've already
8 identified, which is performing piano and
9 giving concert lectures?

10 A. Okay. Teaching. Mainly teaching.

11 Q. Okay.

12 A. And -- teaching piano and all the
13 musical subjects for my students to go to the
14 conservatory and pass their level exams.

15 Q. Going to which conservatory?

16 A. A couple of conservatories,
17 depending where they live.

18 One was the Luca Conservatory, and
19 the other one was the Livorno Conservatory in
20 Italy.

21 I was living there, so I would
22 prepare them in Viareggio, which is my
23 hometown in Tuscany, and I would prepare them
24 to give their exams, level exams.

25 Q. Let's take it step by step.

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2 So you were teaching piano. And
3 again, so am I correct we're talking about the
4 time frame from May of 1987 even including up
5 to now, during that period you've been
6 teaching -- you've been giving piano lessons?
7 Yes?

8 A. Yes. But also solfege and ear
9 training and all the other subjects. History
10 of music. Analysis. Harmony. All the other
11 subjects that help them achieve their program
12 so that they could pass their exams. Because
13 when you are in a conservatory, you don't only
14 have to play the piano. You have to also have
15 holistic, let's say, knowledge of all the
16 details about the music.

17 Q. What exams were they taking that
18 you were preparing them for?

19 A. Solfege, which is ear training.
20 Reading notes. And all the theory that is
21 implied also of all levels. And harmony,
22 counterpoint, history of music.

23 It depends on the level they were
24 trying to achieve.

25 Q. There are different levels, are

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2 there not?

3 A. Yes, there are. Yeah.

4 Q. What are different levels?

5 A. Well, first level, second level. I
6 mean, they have, like, a name.

7 Are you familiar with the Royal
8 Conservatory of Music? They also have levels
9 of all the --

10 Q. So are you analogizing this to
11 bachelor's, master's and Ph.D. levels that we
12 have in the United States, or something other
13 than that, in Italy?

14 A. Something other than that.

15 Q. Okay.

16 A. Because when you are going to the
17 conservatory and do your exam levels, you can
18 do it while you're doing your middle school
19 and high school. So -- and elementary,
20 sometimes also in elementary school.

21 So this is a parallel, let's say,
22 school that you do while you are going to high
23 school or to elementary or middle school.

24 And after that you have, let's say,
25 a conservatory degree, which is first level

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2 and second level. The first level of the
3 conservatory degree is like a bachelor of
4 music. And the second level of conservatory
5 degree is like a master's of music.

6 Q. Okay. And were you retained by the
7 Royal Academy to teach students who are going
8 for a bachelor's?

9 A. Royal Academy of Music are you
10 saying?

11 Q. Yes.

12 A. Well, yes, I am a teacher for them
13 even now. But I am -- my students are not at
14 that level yet.

15 Q. Okay. That's what I'm trying to
16 understand. Thank you.

17 So in terms of these levels that
18 you've described where there are potential
19 courses and exams that exist for elementary or
20 high school students, and then there are the
21 higher levels --

22 A. Exactly.

23 Q. -- what, if any, levels were you
24 retained by the Royal Academy or anyone else
25 to teach during that period of time?

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2 A. Um --

3 Q. And that's if any.

4 A. Yes. Only up until the bachelor's
5 degree. No graduate students.

6 Q. So Royal Academy, does it provide
7 bachelor's degrees and master's degree and
8 Ph.D.s?

9 A. Yes, they do. It's, let's say --
10 it's based in Toronto, Canada. And we belong
11 to the -- to the system, right? And I usually
12 teach my courses in my studio. And when the
13 students are ready, they send one of the
14 judges to Florida, and we go there and we take
15 our exams.

16 Q. Okay. So if I'm understanding
17 correctly, you're not -- you were not ever
18 employed by the Royal Academy?

19 A. No. I belong to the system, but
20 it's -- it's --

21 Q. When you say "system," you'll have
22 to help me out. I don't know what you mean by
23 "system."

24 A. Okay. So it's like Music Teachers
25 Association or the Florida Club of Music. I

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2 mean, there are several entities that help you
3 teach. It's a pedagogical institution that
4 gives you the opportunity to teach and to get
5 your students with the levels in order for
6 them to progress and go up in their studies
7 while they are in middle school, high school,
8 or -- or other institutions like that. But
9 when they reach the level of, let's say, a
10 bachelor's and a masters, then I let them go
11 and go directly inside the institution.

12 Q. Which institution?

13 A. In this case a college or a
14 university.

15 Q. Not the Royal Academy?

16 A. Well, it's quite far away. It's in
17 Toronto. So I prepare them for their exams.
18 If they want to go on, I help them. But they
19 have to be in person, and they have to -- and
20 they have to follow all of the subjects.

21 Q. Okay. So let's just see if we can
22 clarify this.

23 A. Mm-hmm.

24 Q. Am I correct that you have never
25 been retained by any academic institution to

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2 teach any music course at the bachelor level?

3 A. It's correct, yes.

4 Q. And am I correct that you've never
5 been retained by any academic institution to
6 teach any music at the level of a master's
7 degree?

8 A. That's correct.

9 Q. And certainly, if I were to ask the
10 same question, you have not been retained by
11 any academic institution to teach any music at
12 the Ph.D. level, correct?

13 A. Correct.

14 Q. Okay. Have you been retained by
15 any academic institution to teach any music
16 below the bachelor's level?

17 A. No. I always worked as a private
18 teacher.

19 Q. Okay. So other than the
20 performance yourself, you performing piano,
21 and other than giving concert lectures, what,
22 if any, other work did you do during that time
23 period between May 1987 and the present for
24 income related to any music work?

25 I should include -- I apologize.

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2 Let me rephrase.

3 Other than performing piano
4 yourself, other than teaching privately piano
5 lessons and potentially related subjects, and
6 other than the concert lectures, what did you
7 do, if anything, for work related to music
8 from 1987 to the present?

9 A. I just did those things.

10 Q. Thank you. Okay.

11 A. Can I add something?

12 Q. You may not want to ask me. You
13 may want to ask him on a break. But I
14 don't know.

15 THE WITNESS: Can I ask something?

16 MS. LEPERA: I'm just saying --

17 MR. BROWN: Go ahead.

18 A. Well, it may --

19 Q. I may not be able to answer you,
20 though.

21 MR. BROWN: I'm sorry. Did you say
22 can you add something or --

23 THE WITNESS: Yes.

24 MS. LEPERA: Oh, I thought you said
25 ask something.

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2 A. Add.

3 Q. Yes, go right ahead. I thought you
4 said ask.

5 A. Okay. For the Symphony of the
6 Americas I also did some arrangements for
7 their performances, for orchestral
8 performances with choir. I did that.

9 Q. So this is, again, the same time
10 period we're talking about, roughly 1987 to
11 present?

12 A. Well, this is the time when I was
13 already in the States.

14 Q. Okay.

15 A. When I was working for the Symphony
16 of the Americas.

17 Q. Okay. And when you say they
18 commissioned you for arrangements --

19 Is that correct?

20 A. Yes.

21 Q. -- how many?

22 A. I did three arrangements.

23 Q. Okay. What works did you arrange?

24 A. Okay. I arranged a musical work
25 called Fantasy of Venezolana. My uncle

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2 composed that song. And then I performed it
3 with orchestra and the two pianos with my
4 brother.

5 And another one was a song for
6 choir and orchestra, the name We Are the
7 World, by Michael Jackson. I did the
8 arrangement for piano, orchestra and choir.

9 And there was another song that I
10 did for my brother and a singer, and I don't
11 remember the name of the song.

12 Q. Okay.

13 A. I can let you know in the future.

14 Q. Yeah, we can leave a blank in the
15 transcript and you can fill it in.

16 A. I don't remember.

17 TO BE FURNISHED: _____
18 _____.

19 Q. You will get an opportunity to
20 review this transcript.

21 A. Mm-hmm.

22 Q. After it's finished and finalized.

23 A. Okay. Thank you.

24 Q. So you will be able to read it, and
25 obviously there can be errors corrected. If

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2 you do correct anything of substance, we may
3 have to bring you back. But if it's just
4 minor things or filling in blanks, you'll have
5 the opportunity to do that.

6 A. Okay.

7 Q. Okay.

8 A. Thank you.

9 Q. Your brother's on the board of the
10 Symphony of Americas?

11 A. Yes, he is.

12 Q. Other than the Symphony of the
13 Americas have you been paid for any
14 arrangements of any music by anyone?

15 A. No.

16 Q. Okay. Do you have any other
17 professional certifications or licenses in any
18 area unrelated to music? Any kind of, you
19 know, real estate license? Anything else? Do
20 you have any other professional licenses or
21 certifications?

22 A. Well, yes, if you take into
23 consideration that I am studying comparative
24 studies and I will soon be able also to teach
25 Italian and Italian studies -- languages

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2 mainly -- since I will get that degree as
3 well. So I could teach at the, let's say,
4 graduate level not only music but also
5 Italian.

6 Q. The language?

7 A. The language.

8 Q. But not yet?

9 A. Not yet. Hopefully soon.

10 Q. Okay. I was actually just asking
11 whether there's any other certifications or
12 licenses even outside of what you've been
13 doing in connection with your studies and your
14 work.

15 A. No.

16 Q. Like in other industries or
17 something. No?

18 A. No.

19 Q. Okay. So let's talk a little bit
20 about the Ph.D.

21 A. Mm-hmm. Yes.

22 Q. What is your dissertation topic?

23 A. My dissertation is about an opera
24 composed by Pietro Carlo Guglielmi in 1812.
25 He composed it in the region of Campania,

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2 which at the time was the Kingdom of Naples,
3 and it was under Napoleon's rule. But the
4 king was Murat, Joachim Murat. And -- and his
5 wife was Caroline Murat, Caroline Bonaparte
6 Murat, who was Napoleon's sister.

7 Q. Okay. So what is the focus of the
8 dissertation? That's the topic. What's the
9 focus?

10 A. Right. First of all, the focus is
11 to compare that opera with other operas of
12 other composers of the time, like Rossini,
13 Paisiello, other composers not only in Italy
14 but also in France. Because during that time
15 Murat did a very nice reform that implied to
16 use some of the things that were going on in
17 France, also in the opera in Italy.

18 So this opera I'm doing in
19 Monte Carlo reflects those changes.

20 Q. Okay. And when you say you're
21 comparing these various operas, what are the
22 veins in which you are comparing them?

23 A. Okay. I'm comparing the operas,
24 not only the musicological features, like the
25 arias, the recitative, how it's -- I mean,

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2 there are certain features that are
3 particularly different and were particularly
4 different between the Italian opera to the
5 French opera. Okay?

6 So in this moment, this particular
7 moment under the rule -- the French rule of
8 that Italian region, those particular things,
9 features of those operas were different from
10 the Italian opera because they had been
11 influenced by the -- by the French rule.
12 Okay?

13 So the particular things -- it's
14 not only the political, the sociological and
15 also the cultural and literary movements that
16 were there at that moment, but it's also the
17 score.

18 I found the score, the manuscript
19 score, in a castle in Italy, and I did the
20 transcription of the whole opera already.
21 It's ready. And also the whole libretto,
22 which is in Italian and Neapolitan language.

23 So the thing that I have to compare
24 is not only the relationship of the composer
25 to other composers and how he was forced to do

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2 that opera at that time in this particular
3 way, but also we have to compare what are the
4 things that, in the themes, in the movements,
5 in the arias, are typical of that time, and
6 preceding other composers, like Bellini, for
7 example, who came later, but he is influenced
8 by Pietro Carlo Guglielmi. Also Rossini came
9 later, but he's also influenced by how he was
10 doing his operas.

11 And that's not only you can listen
12 to it by analyzing the score and the
13 particular arias and particular movements
14 where the chorus comes in, what happens, that
15 is the things that I'm working on in the
16 comparative studies in order, you know, to
17 discuss my dissertation.

18 Q. So you said you transcribed the
19 particular opera --

20 A. Mm-hmm.

21 Q. -- manuscript that's unpublished?

22 A. Yes.

23 Q. Fully transcribed it?

24 A. Yes.

25 Q. Okay. Have you fully transcribed

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2 all the other works that you just mentioned to
3 me?

4 A. Fully transcribed? No. I just
5 transcribed the things that are, let's say, in
6 common. Okay? So that I could make a
7 comparison between the two operas. Okay?

8 Q. So only what you believe is in
9 common you transcribed, correct?

10 A. Yes.

11 Q. You didn't do a full analysis of
12 the works, comparing them in their entirety?

13 A. The entire opera of the other
14 composers?

15 Q. Correct.

16 A. No.

17 Q. Okay.

18 A. I just took some parts of it and I
19 said, okay, this is something that came after
20 this composer, but still those two composers
21 have the same, let's say, structure, the
22 crescendo, and then the full -- the full
23 chorus and music. There are some features
24 that are in common.

25 Q. When you transcribed these operas,

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2 other than the unpublished 1812 portions
3 thereof, what were the musical elements that
4 you transcribed?

5 A. I transcribed, let's say, the
6 whole -- the whole section where I -- where I
7 am sure that there is resemblance in between
8 the two compositions.

9 Q. I am asking what musical elements
10 did you transcribe?

11 A. The musical elements are the
12 melodic elements and the rhythmic patterns and
13 harmonic patterns and the structure and the
14 instrumentation, the orchestration in the
15 sense of what instruments were there. And in
16 a certain time -- it's important also to see
17 the lyrics and how the disposition of these
18 lyrics come. And although they can have
19 different narratives, but do they sound the
20 same. Why? It's the relationship between the
21 notes and the syllables similar, strikingly
22 similar.

23 Q. Where did you come up with that
24 word?

25 A. Which one? "Similar"?

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2 Q. "Strikingly similar."

3 A. Strikingly similar?

4 Q. Mm-hmm.

5 A. I just -- where did I come up?

6 Q. Yes.

7 A. I just -- I just feel it. I

8 mean ...

9 Q. Do you have a particular definition
10 for that?

11 A. Very similar.

12 Q. Okay. And that's it? That's your
13 definition?

14 A. Definition? Yeah.

15 Q. Okay. So you mentioned a number of
16 different musical elements that you say you
17 transcribed. And you did this on --

18 A. Sibelius 7, which is the software
19 notation that I use.

20 Q. Okay. And again, though, you only
21 drew out those portions that you believe
22 were --

23 A. Yes.

24 Q. -- similar --

25 A. Yes.

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2 Q. -- to the --

3 A. Mm-hmm.

4 Q. -- 1812 opera, correct?

5 A. Yes.

6 Q. Okay. All right.

7 Now, who are your dissertation
8 advisors?

9 A. Okay. Dr. Ilaria Serra. She's the
10 head of the Italian department at FAU.

11 Dr. Andres Espinoza. He is --

12 Q. You may have to spell that. I'm
13 convinced you are going to have to spell that,
14 right?

15 A. Andres Espinoza. He is the
16 musicologist at Florida Atlantic University.

17 Dr. Mitchell Hutchins. He is the
18 opera expert. He is also in the music
19 department at Florida Atlantic University.

20 And then Dr. Alessandra Montali.
21 She is a musicologist in Italy at the Puccini
22 Conservatory. Giacomo Puccini Conservatory.

23 Q. You used the term "musicologist."

24 A. Yes.

25 Q. What is a musicologist?

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2 A. A musicologist is an expert in the
3 science of music. The science of music, like
4 methodology, all the requirements, and all of
5 them are doctors in the sense that they have
6 achieved a doctorate in musicology.

7 Q. There are different subsets of
8 musicology, are there not?

9 A. Yes, there are.

10 Q. Do you know what they are?

11 A. Well, there is a part of
12 ethnomusicology.

13 There are different, also,
14 expertises. Let's call them like that. Okay?
15 So yeah. We have, let's say, musicologists
16 can be -- can be -- can choose to be trained
17 on the things that they are really interested
18 in. Like, for example, in my case I am
19 interested in opera. And also the things that
20 Italian language have to do with the music,
21 songs, and things like that. Okay? In this
22 sense.

23 Q. Okay. So you understand there are
24 different types of musicologists, correct?

25 A. Yes.

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2 Q. And different focus areas, correct?

3 A. Yes.

4 Q. And what degree does Dr. Espinoza
5 have, if you know?

6 A. He's a doctor in musicology from
7 Boston University.

8 Q. And do you know what area of
9 musicology she specialized in?

10 A. He specialized --

11 Q. Oh, he. Pardon me.

12 A. Yeah. He specialized in, let's
13 say, ethnomusicology.

14 Q. What about -- I'm forgetting the
15 gentleman. The gentlemen from Puccini. Oh,
16 female.

17 A. A lady.

18 Q. What type of musicologist is she?

19 A. She received her doctorate from the
20 Bologna Conservatory -- the Bologna
21 University, sorry. And she is a musicologist,
22 let's say, that -- well, I -- I understand
23 that she is a very well-prepared person, and
24 she works with opera, and so she is a mentor
25 in that section where I am studying right now.

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2 Q. Okay. Do you have any other
3 further details about her focus or
4 specialization as a musicologist, other than
5 what you have told me?

6 A. No.

7 Q. And your degree from FAU, your
8 master's degree, and even your bachelor from
9 Philadelphia University, were in piano
10 performance only, correct?

11 A. Correct.

12 Q. Have you written any articles or
13 publications on the subject of music theory?

14 A. Yes, I have. During my master's
15 program. But I never published them.

16 Q. Okay. So let me ask this way:
17 You have no publication of any
18 article or book on the subject of music theory
19 or analysis, correct?

20 A. Correct.

21 Q. And you have published certain
22 books though, correct?

23 A. Yes. Correct.

24 Q. But they're not on the subject of
25 music theory or analysis, correct?

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2 A. Correct.

3 Q. Do you still teach piano?

4 A. Yes, I do.

5 Q. What books do you use to teach your
6 students piano?

7 A. You mean repertoire?

8 Q. Anything.

9 A. Do -- okay. Well, since I am
10 teaching my students to fulfill their level, I
11 usually use the Royal Conservatory of Music
12 books for piano theory and technique skills,
13 études. They provide -- according to the
14 level my students are, they provide those
15 books to the teachers so that I can teach them
16 according to the level they pass and the next
17 level what is going to -- to be.

18 Q. Who are the authors of those books
19 that come from the Royal Academy? Because the
20 Royal Academy doesn't author them, do they?

21 A. No. It's a compilation of pieces
22 that they just put them in their books.

23 Q. And who are the authors of the
24 books?

25 A. Oh, okay. So we go from different

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2 areas, starting from the Baroque, or even
3 before that, Baroque composers like Bach,
4 Scarlatti.

5 Then the second session is about
6 classical composers. It can be Mozart,
7 Beethoven.

8 And then the third section is about
9 impressionistic, and more -- romantic and
10 impressionistic. And fourth one is more
11 modern composers.

12 Q. With respect to your students, do
13 they range from beginner to more advanced?

14 A. Yes.

15 Q. And has that always been the case?

16 A. Yes.

17 Q. And you do this all from your own
18 home studio, whether it would be first in
19 Italy and now in the U.S.?

20 A. Yes, mm-hmm.

21 Q. Does this include younger children
22 as well, children that are just starting
23 piano?

24 A. Yes.

25 Q. And what do you teach the

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2 beginners?

3 A. The beginners is a propedeutic way
4 of teaching. So I have some, yes, books, but
5 also some nice, let's say, slides that I print
6 them and I give them. So the first note, they
7 can learn the name of the note. I have games
8 for them. Because, you know, every age has
9 its own way of methodology for them to learn
10 the music. So that's the propedeutic part.

11 I'm a --

12 Q. You'll have to spell that for him.

13 A. Okay.

14 Q. Can you spell it?

15 A. Propedeutic. It's
16 P-R-O-P-E-D-E-U-T-I-C.

17 Q. And what about any piano books; do
18 you use any, or have you used any piano books
19 for your --

20 A. Yes.

21 Q. -- younger students?

22 A. Yes. For the younger students, I
23 like to use the Bastien method or -- there are
24 several ones. And sometimes I use them at
25 once. Like I gave -- I give to some -- I even

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2 make compositions for my students, depending
3 on what they want to learn, if they like one
4 song. So I arrange them for them according to
5 their level. And -- but I use -- yes, I use
6 several methods. Mm-hmm.

7 Q. Can you identify any of the piano
8 books?

9 A. Yes. Hal Leonard, and I use
10 also --

11 THE COURT REPORTER: I'm sorry?
12 What was it?

13 A. Yeah, Hal Leonard is one of the
14 publishing companies that have those first --
15 well, first-year or first levels --

16 MS. LEPERA: I lost my -- okay. I
17 don't know the password. Sorry.

18 THE COURT REPORTER: Can you pause
19 a minute?

20 MS. LEPERA: Yes.

21 MR. BROWN: Are we off the record?

22 THE COURT REPORTER: Can we go off?

23 MS. LEPERA: We are not yet. Do
24 you want to go off?

25 THE VIDEOGRAPHER: We are now going

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2 off the record. The time now is
3 11:13 a.m.

4 (Recess taken.)

5 THE VIDEOGRAPHER: We are back on
6 the record. The time is 11:29 a.m.
7 This is the beginning of the media
8 labeled number 2.

9 MR. BROWN: Just to put on the
10 record, before the break evidently it
11 appears there may be some portion of the
12 last question and/or answer have been
13 omitted. And therefore, without waiving
14 any objections for asked and answered,
15 we'll do it again.

16 MS. LEPERA: Yes. And I'm likely
17 going to get back into this again a
18 little bit more later.

19 BY MS. LEPERA:

20 Q. But the basic question was, what,
21 if any, piano books did you use or are you
22 using with your younger students to teach them
23 basics?

24 A. Okay. As I said before, I used the
25 Royal Conservatory of Music books. I

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2 complement those books, especially for the
3 little kids, with the books like the Bastien
4 method, and also the Hal Leonard. That's a
5 publishing company --

6 Q. Hal Leonard?

7 A. Hal Leonard.

8 Q. Hal. H-A-L, L-E-O-N-A-R-D.

9 A. Well, I pronounce it differently.

10 Q. That's all right.

11 A. Okay, sorry. Then I also like to
12 complement them with John Thompson. John
13 Thompson. That's another book for beginners.
14 And Little Mozarts, I like that book, too.

15 So basically I use the method for
16 the Royal Conservatory of Music, but I
17 complement with other books, depending on the
18 songs. If they want to play, let's say,
19 Oh! Susanna, or things like that, I like them
20 to choose and to get other authors.

21 Q. Okay.

22 A. It depends on the kids.

23 Q. Sure.

24 A. Because it's nice to, you know, to
25 fit them with the things that they want to

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2 learn. Besides the ones that they have to
3 learn in order to progress in their studies.

4 Q. Okay. And we'll probably go back
5 to this a little bit later, but let's just
6 move on right now.

7 I want to talk to you a little bit
8 about your FAU, Florida Atlantic University,
9 teaching position as an adjunct professor from
10 2021 to the present.

11 What is teaching Owlingua?

12 A. Okay, Owlingua is part of the
13 linguistic department. We have the department
14 of languages there. And Owlingua is an
15 opportunity to teach also to the community --
16 not only to the students at FAU, but also to
17 the community -- languages. Okay?

18 In this case I am teaching a course
19 that I invented, let's say, created during the
20 pandemic. It's called a virtual trip to
21 Italy. And it's based on the regions of
22 Italy. We have 20 regions in Italy. And
23 every week we do one region. We focus on that
24 region for our own research, and the research
25 has to be comprehensive of art, literature,

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2 architecture. Anthropology maybe there is
3 something to look for that. Of course
4 culture, museums and music composers. And we
5 share -- everybody has to share what they like
6 the most in this particular region.

7 Q. Okay. All right. And this is a
8 continuing education language program?

9 A. Yes.

10 Q. So there is no degree or
11 certification?

12 A. There is a certification at the end
13 of each semester? Okay. Because this is
14 Part 1 and Part 2, since we have 20 regions.
15 And so I divided that -- I divide one semester
16 for Part 1 and the second semester for Part 2.

17 Q. And what is the nature of the
18 certification? Just a continuing education?

19 A. Exactly. They have completed the
20 course.

21 Q. Okay. But it's not going to be
22 used for any degree?

23 A. No. No, they don't get credit for
24 it.

25 Q. Okay. There are a couple of

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2 companies. I don't know if they're on your
3 bio, but we've located them.

4 One is Salani International, LLC?

5 A. Yes.

6 Q. Is that yours?

7 A. Yes.

8 Q. What is that?

9 A. Well, that's the company that --
10 where my, let's say, academy is. That's
11 something that I use for paying taxes. For
12 example, all the money that I receive from my
13 students and all, sometimes they have concerts
14 and they pay me, so I have to -- to, you know,
15 to file the taxes, and that's the company I
16 use. And sometimes I'm in Italy. So if I'm
17 paid there, I can say -- that's why it's
18 called International.

19 Q. Okay. And what about Northern
20 Conference, LLC? Is that yours too?

21 A. Yes, that was mine, but it has been
22 suspended. I mean, it's not working anymore.

23 Q. What was it formed for?

24 A. That was -- no. That was only
25 for -- it was for some land and things that I

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2 bought, but then, you know, I -- I decided not
3 to use that anymore. For only real estate
4 properties.

5 Q. Okay. What is Tuscany Music, LLC?
6 Yours?

7 A. That doesn't belong to me.

8 Q. Okay. Do you have any websites or
9 URLs that you own?

10 A. I do have a dominion [sic], but I
11 have not done my website yet. I'm waiting for
12 my Ph.D. to be finished so I can do a website.

13 I have a LinkedIn profile.

14 Q. Okay. Is ForLoveofMusic.com yours?

15 A. Yes, it is.

16 Q. That is a website?

17 A. That's a website, and that talks
18 about the book I published, which called Music
19 For Life, The Salani Brothers.

20 Q. Which we've established has nothing
21 to do with music theory, correct?

22 A. No, it has nothing.

23 Q. Am I correct?

24 A. Yes, you are correct. It has not
25 anything to do with music theory.

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2 Q. And what about DuoHelmanSalani.com?

3 A. Yes.

4 Q. Is that yours as well?

5 A. That's mine and also my partner's,
6 Laura Helman. We have been performing for
7 many years in Europe, and so that's why we
8 have that. Yes.

9 Q. Okay. So I have mentioned two.
10 Are there any others that you have?

11 A. Websites?

12 Q. Yes, websites or URLs.

13 A. No. I don't -- no.

14 Q. And you say you're waiting to form
15 one --

16 A. Exactly.

17 Q. -- later?

18 A. Yes. I bought the dominion, but I
19 am waiting to finish my Ph.D. and then I will
20 be creating my -- my website. My own website.

21 Q. Okay. Do you belong to any
22 professional associations?

23 A. Yes.

24 Q. Which professional associations?

25 A. Music Teachers Association. I am

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2 the vice president of the Palm Beach County
3 Music Teachers Association.

4 I belong also to the Royal
5 Conservatory of Music, and I'm one of the
6 teachers of this association.

7 And I also belong to the Federation
8 of Music Clubs. Florida Federation of Music
9 Clubs.

10 Q. What is that?

11 A. Okay. That's another entity that
12 works in a local environment. So my students
13 go there for composition, or just to be there
14 during the festival, the federation festival.
15 And if they get superior, then they go to the
16 regional, to, let's say, the states, in Tampa.
17 And if they get superior there too, they go to
18 nationals.

19 So it's like a step. Every time
20 you do these competitions, you --

21 Q. Piano competition?

22 A. Piano competitions.

23 Q. Okay.

24 A. -- then you go further, and you
25 just move on to the next step.

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2 Q. Okay. Great.

3 Are you familiar with the American
4 Musicological Society?

5 A. I am familiar.

6 Q. You're not a member?

7 A. No, not yet.

8 Q. What about --

9 A. I would be -- I would like to be a
10 member. Maybe once I am a Ph.D., then I can,
11 you know, go on to that one as well.

12 Q. Okay. What about the International
13 Musicological Society; are you familiar with
14 that?

15 A. I am familiar with that. But I am
16 not a member yet.

17 Q. Okay. And what about the Society
18 for Music Theory? Are you familiar with that?

19 A. I'm familiar with that, but I'm not
20 a member yet.

21 Q. Okay. So moving on a little bit.
22 Are you being compensated in
23 connection with your work as an expert in this
24 matter?

25 A. Can you please repeat?

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1 B. SALANI

2 Q. Are you being paid for your work in
3 connection with this matter?

4 A. I am paid for my time to -- to
5 analyze objectively. I have been paid for
6 writing my testimony report, yes.

7 Q. Okay. And what is your rate that
8 you've been paid and for how many hours?

9 A. Okay. For the testimony report I
10 asked \$250 per hour. And the total amount of
11 time was about \$6,250.

12 Q. Okay. How did you find out about
13 this litigation? Who contacted you?

14 A. Well, I found out about this
15 litigation thanks to my -- a friend of the
16 family. His name is Charles Calello. He told
17 me he was working on this litigation the first
18 time, but then, you know, everything -- he
19 didn't give me any -- any kind of explanation.

20 But after a while, after some time,
21 he called me and asked me if I would like to
22 be part of this litigation in the sense that
23 since I told him that I was studying
24 musicology, so he asked me if I wanted to be
25 part of it.

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1 B. SALANI

2 Q. When you say he's a friend of the
3 family, whose family? Your family?

4 A. The Salani family. In particular
5 my brother, yeah.

6 Q. Okay. So there's a relationship
7 between Charles Calello and your brother?

8 A. A friendship.

9 Q. Friendship. Okay. Are you also
10 friends with Mr. Calello on Facebook?

11 A. Yes, I am a friend with
12 Mr. Calello. I respect him, and I admire him
13 also.

14 Q. And his wife as well?

15 A. Yes.

16 Q. Do you socialize with them?

17 A. Sometimes when I go to their
18 concerts I see Clay. That's his wife's name.
19 Yeah. And that's -- yes.

20 Q. And you go to his concerts?

21 A. I go to his concerts, yeah.

22 Q. Okay.

23 A. When I have a chance. I'm sorry.

24 Q. No, I understand.

25 A. It's not always when I am

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1 B. SALANI

2 available.

3 (Salani Exhibit 2, Article about
4 Calello (Italian version) was marked for
5 identification.)

6 BY MS. LEPERA:

7 Q. I am presenting you, Ms. Salani,
8 with -- I think it's a nine-page document.
9 Strade Dorate, if I'm pronouncing that
10 correctly?

11 A. Yes. Strade Dorate, yes.

12 Q. Yes. And can you tell me if you're
13 familiar with this document?

14 A. Yes, of course.

15 Q. And what is this document?

16 A. Well, I write with -- through the
17 Florida Atlantic University. This is an
18 academic journal where my teachers ask me to
19 write articles in. So this was not my only
20 article. You can find other articles I wrote.
21 And I decided to talk about Charles Calello.

22 Q. Can you just tell me, when was this
23 written?

24 A. When?

25 Q. Yeah. I am going to put an English

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1 B. SALANI

2 translation in, to make sure that we're all
3 looking at the same thing.

4 THE COURT REPORTER: One second.

5 MS. LEPERA: This is going to be
6 number 3. Salani 3.

7 (Salani Exhibit 3, Article about
8 Calello (English translation) was marked
9 for identification.)

10 MS. LEPERA: We have two different
11 versions. One is Italian. One is
12 English.

13 MR. BROWN: Counsel, may I ask,
14 what platform, if any, was used to
15 translate this?

16 MS. LEPERA: I don't know. But we
17 can see if it's accurate. That's why
18 I'm putting both on. That's why we have
19 the expert here.

20 Okay, whenever you're ready.

21 BY MS. LEPERA:

22 Q. Ms. Salani, I apologize. I
23 basically was looking at the Italian version,
24 which is Salani 2. I have now given you
25 another document, which appears to be an

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1 B. SALANI

2 English version, a nine-page document.

3 Can you tell me whether or not the
4 English -- well, first of all, Salani 2 is an
5 article you wrote in Italian about
6 Mr. Calello, is that correct?

7 A. That is correct, yes.

8 Q. You wrote it in Italian?

9 A. I wrote it in Italian because it
10 was for an Italian academic journal.

11 Q. Perfect. Now I am asking you to
12 look at Salani 3 and tell me whether or not
13 that's an accurate translation of your article
14 into English. Because, as your counsel
15 pointed out, it came from Google.

16 A. Okay. Can I take my time?

17 Q. You can totally take your time.

18 A. Okay.

19 MR. BROWN: And, Counsel, to
20 expedite things, I don't know how much
21 of an issue I am going to assert about
22 the translation. So if there's anything
23 you want to focus in on.

24 MS. LEPERA: No, not really. I
25 just want her to tell me if there's

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1 B. SALANI

2 anything inaccurate or grossly
3 inaccurate.

4 (The witness reviews document.)

5 A. Do I have to read the whole thing
6 or --

7 Q. No, I'm not really going to delve
8 deeply into the content. I just wanted to,
9 since I don't read Italian, want to make sure
10 that this version is, from your perspective,
11 reflects what you wrote in Italian. At least
12 in, you know, substantial part.

13 A. Okay. Well, I read one page and a
14 half.

15 Q. Does it look right?

16 A. I can say --

17 Q. More or less?

18 A. Yeah. Pretty much.

19 Q. Okay.

20 A. It represents what I said in
21 Italian.

22 Q. Okay. And I was asking you, when
23 did you write this?

24 A. I -- I wrote it at the end of 2022
25 maybe, and then it was published at the

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1 B. SALANI
2 beginning of 2023, in my -- I think so. But I
3 don't remember exactly the dates.

4 Q. So it was before you wrote your
5 report in this case, correct?

6 A. Yes, I think so.

7 Q. While this litigation was pending?

8 A. Yes, mm-hmm.

9 Q. Okay. What prompted you to write
10 this article about Mr. Calello?

11 A. When, you know, you're an academic,
12 you have to write something, right? And I was
13 assigned to write an article of a musician or
14 a composer that I knew, and to interview if he
15 was alive. And that's why I -- I decided to
16 interview Mr. Calello.

17 Q. And you said you were assigned to
18 do this?

19 A. Yes.

20 Q. By whom?

21 A. Ilaria Serra. Dr. Ilaria Serra.
22 She's the head of the Italian department. And
23 sometimes she's like -- she likes me to
24 read -- to write articles for the Italian
25 academic journal. Strade Dorate it's called.

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1 B. SALANI

2 Q. This has nothing to do with the
3 Ph.D.?

4 A. I do it while I do the Ph.D., yeah.

5 Q. But it's not part of your thesis or
6 dissertation?

7 A. No, this is not part of my
8 dissertation.

9 Q. Okay. So when you say it was
10 assigned to you, did you have an obligation to
11 do this?

12 A. I was invited to do it.

13 Q. Ah.

14 A. Extra credit. You know how it
15 works.

16 Q. Were you paid to do this?

17 A. No.

18 Q. Okay.

19 A. No, no.

20 Q. Okay. And was this article written
21 before or after you spoke to him about
22 potentially being an expert in this case?

23 A. Before.

24 Q. You wrote this before?

25 A. Before, yeah.

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1 B. SALANI

2 Q. Okay. And when did you interview
3 him?

4 A. Before I wrote this testimony --
5 this testimony report.

6 Q. Okay. And then after you were
7 contacted by him in connection with this
8 matter --

9 A. Yes.

10 Q. -- you agreed to participate; yes?
11 In connection with this service for
12 Mr. Brown's clients, correct?

13 A. Correct.

14 Q. Okay. And then what, if any,
15 conversations did you have with Mr. Calello
16 about this matter after you were retained by
17 Mr. Brown?

18 A. Okay. I asked to read his
19 musicological report.

20 Q. His report was written before you
21 wrote yours?

22 A. Yes, it was.

23 Q. Okay. How did you know that?

24 A. Well, because I got the opportunity
25 to read it and analyze it and objectively

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1 B. SALANI
2 investigate if there was -- um, there were the
3 similarities between the songs.

4 And after I read his report, then I
5 started formulating my own investigation, and
6 I started with my methodology, musicological
7 abilities, to write my own report.

8 Q. Okay. And did you see one draft,
9 more than one draft, of his report, or was it
10 already finalized?

11 MR. BROWN: Object to the form.

12 Q. You can answer that one. That's
13 just an objection to form. Not an
14 instruction. Remember?

15 MR. BROWN: Unless I instruct you
16 not to answer, you may answer the
17 question.

18 MS. LEPERA: He's just preserving
19 his form objection.

20 A. That was a draft. He had not
21 finished doing his report.

22 Q. And you know this because you saw
23 more iterations of his report after --

24 MR. BROWN: Objection.

25 Q. -- you saw the first draft?

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1 B. SALANI

2 MR. BROWN: I'm sorry, Counsel.

3 Object to the form.

4 Q. How do you know it was a draft?

5 A. Because he told me that it was a
6 draft.

7 Q. Okay. And then after you saw the
8 draft did you see further drafts of
9 Mr. Calello's report in this matter before he
10 submitted his final to us?

11 MR. BROWN: Object to the form.

12 MO A. No, I didn't. I just went my own
13 way to try to analyze objectively what I heard
14 about the songs -- I mean the videos, what I
15 heard in the videos and the music of the
16 songs.

17 Q. I didn't ask you that, Ms. Salani,
18 so I am going to move to strike that answer.

19 What I asked you was whether or not
20 you saw any further drafts of Mr. Calello's
21 report after you saw the first one?

22 MR. BROWN: Object to the form.

23 A. No.

24 Q. Okay. And did you obtain any --
25 withdrawn.

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1 B. SALANI

2 Did you provide Mr. Calello with a
3 draft of your report to review?

4 MR. BROWN: Object to the form.

5 A. I don't remember.

6 Q. Did you discuss his report with him
7 at any point in time before you wrote yours?

8 MR. BROWN: Object to the form.

9 A. Yes. After I read his report I
10 discussed it with him.

11 Q. It was just the two of you on the
12 phone call?

13 A. Yes.

14 Q. Okay. Was this in person or on the
15 phone?

16 A. On Zoom.

17 Q. Pardon me?

18 A. On Zoom.

19 Q. And the topic of the conversation
20 was his report on Zoom, is that right?

21 MR. BROWN: Object to the form.

22 A. Yes.

23 Q. Okay. And was he soliciting your
24 opinion on his report?

25 MR. BROWN: Object to the form.

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1 B. SALANI

2 A. Yes.

3 Q. Okay. And did you discuss the
4 contents of his draft report on that Zoom
5 call?

6 MR. BROWN: Object to the form.

7 MS. LEPERA: I'm trying to go slow.

8 MR. BROWN: Sorry.

9 A. Yes.

10 Q. Okay. Do you recall what you
11 discussed regarding the contents?

12 A. I asked for explanations of the
13 things that I didn't understand in his report.

14 Q. Do you remember what you didn't
15 understand in his report?

16 A. Yes. In particular I asked about
17 previous legal cases that were done before
18 this, and because I saw that he was telling me
19 that there was a previous case between two
20 other songs. I mean Wiggle and Don Diablo.
21 But just to know. And he didn't know, because
22 these are things that only the lawyers have to
23 know. I did ask him. But I'm still -- it's
24 not something that I have to know. Because
25 the legal part of this is taken care of by the

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1 B. SALANI

2 legal experts.

3 Q. Did he have legal cases in his
4 draft report?

5 MR. BROWN: Object to the form.

6 A. Yes, he mentioned it.

7 Q. Okay. Other than asking about
8 questions you may have had about these legal
9 authorities in his draft report, did you ask
10 him any questions, any other questions about
11 the content of his draft report on your Zoom
12 call?

13 MR. BROWN: Object to the form.

14 A. Well, I -- I had an idea what he
15 had said already, and pretty much I understood
16 what was his point, so I decided to go on and
17 do my own report.

18 Q. Okay. How long was the Zoom call?

19 A. I don't remember.

20 Q. Approximately.

21 A. I have no idea.

22 Q. Two minutes?

23 A. Maybe a little more than that. But
24 not -- not very long.

25 Q. Okay. And then when you drafted

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1 B. SALANI

2 your report, did you provide him with a copy
3 in draft to review?

4 MR. BROWN: Objection.

5 Q. Mr. Calello meaning "he." Sorry.

6 MR. BROWN: Object to the form.

7 A. Can you please --

8 Q. Yeah. Did you give Mr. Calello a
9 copy of your draft report when you wrote it,
10 before you finalized it?

11 MR. BROWN: Object to the form.

12 A. I don't remember.

13 Q. Okay. Did you ask him any
14 questions about the content of your draft
15 report when you were writing it?

16 MR. BROWN: Object to the form.

17 A. I don't remember. But I don't
18 think so.

19 Q. Okay. Did he give you any
20 suggestions as to what to put in your draft
21 report?

22 A. No, he didn't.

23 Q. Okay. Did you give him any
24 suggestions as to what to put in his draft
25 report?

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1 B. SALANI

2 MR. BROWN: Object to the form.

3 A. No. But I don't really remember.

4 Q. Did you have any conversations with
5 Mr. Calello at all, since the time you first
6 saw his draft report and today, regarding
7 either of your reports?

8 MR. BROWN: Object to the form.

9 A. No.

10 Q. So there was only one conversation
11 that you had with Mr. Calello on Zoom, is that
12 right, about his report?

13 MR. BROWN: Object to the form.

14 A. We talked after, because he told me
15 that the lawyers were going to call me. So he
16 called me to tell me, okay, the lawyers are
17 going to call you.

18 So, he was, like, receiving their
19 call. Just because we were going to be asked
20 to come here.

21 Q. Right. Okay. But I am asking
22 whether or not you had conversations of
23 substance with him about either his report or
24 your report, other than that one time on Zoom?

25 MR. BROWN: Object to the form.

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1 B. SALANI

2 A. Not that I remember of.

3 Q. You don't remember?

4 A. No.

5 Q. Okay. And when he sent you the
6 draft, did he send it to you by email, or how
7 did you obtain it from him?

8 MR. BROWN: Object to the form.

9 A. By email.

10 Q. Okay. Very good. All right.

11 Do you know Sandy Linzer?

12 A. I don't know him personally, but
13 yes, I -- now I know -- I know him -- about
14 him.

15 Q. Okay. Have you ever met him?

16 A. Never.

17 Q. Okay. Do you know what his
18 relationship is with Mr. Calello?

19 A. Mr. Calello told me that they are
20 friends.

21 Q. And he told you that when?

22 A. Um, that was at the beginning, when
23 he told me that there was this legal case.

24 Q. Did he tell you anything else about
25 Mr. Linzer?

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1 B. SALANI

2 A. Not that I remember of.

3 Q. Okay.

4 (Salani Exhibit 4, Facebook post
5 was marked for identification.)

6 MS. LEPERA: I am marking for
7 identification Salani 4, which is a
8 three-page document that purports to be
9 a Facebook post. I'll ask Ms. Salani
10 about that.

11 Q. Whenever you get a chance, can you
12 tell me if this is a post that you made on
13 Facebook on November 7, 2022?

14 A. Yes, I did that. I didn't remember
15 precisely the date.

16 Q. And now that you have this in front
17 of you, does it refresh your recollection as
18 to where this date fits in the sequence of him
19 contacting you about this litigation, before
20 or after?

21 A. This was before he contacted me.

22 Q. Okay. And do you see how you have
23 a post -- well, first, on top it looks like
24 it's in Italian, and then below it, it appears
25 to be in English.

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1 B. SALANI

2 Is that your -- are those your
3 words, "Dear Friends, Do you know Charles
4 Calello"?

5 Is that you writing that?

6 A. Yes.

7 Q. Quote, "an unknown
8 Italian-American, but an icon of American
9 music in the world."

10 Did you write that?

11 A. Yes.

12 Q. Okay.

13 A. I was looking -- okay. I will go
14 with that.

15 Q. You wrote that, correct?

16 A. Yes.

17 Q. Okay. And this was before he
18 contacted you about this litigation, correct?

19 A. Exactly.

20 Q. Okay. Needless to say, you have
21 huge respect for him, correct?

22 A. Very huge respect, yes.

23 Q. Okay. All right.

24 A. And here I mentioned Dr. Ilaria
25 Serra. She was the one that gave me the

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1 B. SALANI

2 opportunity to do this.

3 Q. I understand. Okay.

4 (Salani Exhibit 5, Testimony Report
5 for Copyright Infringement, By Barbara
6 Salani was marked for identification.)

7 Q. I want to just ask you a couple of
8 questions before we go into this.

9 So in terms of preparing for this
10 deposition, we call this, this testimony here
11 today, did you meet with anyone other than
12 counsel to prepare?

13 A. No.

14 Q. Did you discuss your deposition or
15 your potential deposition testimony with
16 anyone other than counsel?

17 A. No.

18 Q. Was anyone else present, meeting
19 with counsel and you to prepare for this
20 deposition?

21 A. Yes. Eric and --

22 Q. That's counsel.

23 A. Oh, okay. Besides the three
24 gentlemen here?

25 Q. Yes.

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1 B. SALANI

2 A. No.

3 Q. Just them?

4 A. Just them.

5 Q. Okay. And how long did you meet?

6 A. For about four hours yesterday.

7 Q. Okay. And did you review any
8 documents?

9 A. My testimony report.

10 Q. Okay. Anything else?

11 A. No.

12 Q. Did you review Mr. Calello's
13 report?

14 A. No.

15 Q. Okay. When you prepared your
16 report did you have Mr. Calello's report
17 handy?

18 A. No, I didn't.

19 Q. Okay. Did you print out a copy of
20 his draft report --

21 MR. BROWN: Object to the form.

22 Q. -- when he sent it to you?

23 MR. BROWN: Object to the form.

24 A. No, I didn't.

25 Q. You just looked at it online?

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1 B. SALANI

2 A. Yeah. I looked at it in the
3 computer, and that was it.

4 Q. Did you send any emails back and
5 forth from Mr. Calello about the reports;
6 either of them?

7 MR. BROWN: Object to the form.

8 A. I don't remember, honestly.

9 Q. If you did exchange emails with
10 Mr. Calello, would you have copied anyone else
11 on them?

12 A. Can you please repeat the question?

13 Q. If you changed emails with
14 Mr. Calello about either of your reports in
15 this case, would you have copied anyone else
16 on those emails?

17 MR. BROWN: Object to the form.

18 A. I don't remember doing that. I
19 don't think so. I don't remember.

20 REQ MS. LEPERA: Okay.

21 If there's emails between
22 Ms. Salani and Mr. Calello, certainly
23 that don't include you guys, Counsel,
24 then I make a request for the production
25 of those emails.

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1 B. SALANI

2 MR. BROWN: Okay. If you make the
3 request, we'll review it and respond
4 appropriately.

5 MS. LEPERA: Thank you.

6 BY MS. LEPERA:

7 Q. Okay. We've put in front of you
8 Salani 5. Do you recognize this document?

9 I will say, we put page numbers on
10 the bottom. Other than that, we didn't do
11 anything else. Just because you didn't have
12 page numbers. So if I am going to question
13 you, we needed page numbers.

14 A. Yes, I recognize this document.

15 Q. Okay. And I represent nothing else
16 was changed.

17 And obviously your CV, which we've
18 reviewed already, is attached. So this, all
19 told, is a 13-page document.

20 A. Yes.

21 Q. Can you confirm for me that this is
22 an accurate copy of your expert opinion in
23 this case?

24 A. Yes, it is.

25 Q. Okay. And there's a date on the

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1 B. SALANI

2 top of 10/27/2023.

3 Is that the date when you
4 finalized it?

5 A. Yes, it is.

6 Q. Okay. Did you start drafting it
7 sooner?

8 A. I started drafting it like ten days
9 before, because I didn't know that this was
10 going to happen, right? So I started drafting
11 after I received a call from -- from the
12 lawyers.

13 Q. So when Mr. Calello asked you if
14 you would be willing to do this, you said yes,
15 correct?

16 A. I said yes.

17 Q. Okay. And this is -- when he asked
18 you to do it, had you already seen his draft
19 report?

20 A. His draft report? Yes. I had seen
21 it before.

22 Q. Why would he send you his draft
23 report before you were invited to participate
24 in this, if you know?

25 MR. BROWN: Object to the form.

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1 B. SALANI

2 A. Well, why did he send it to me? Is
3 that your question?

4 Q. When you were not involved in the
5 matter at that time. Correct?

6 A. Correct. I think -- I mean, can I
7 suppose? I think that he just wanted me to
8 know about what the legal content was and to
9 do my own musicological objective report.

10 Q. But you had not done your own
11 musicological, as you call it, expert
12 report --

13 A. Yes.

14 Q. Hold on.
15 -- because you hadn't been
16 contacted by counsel yet, correct?

17 A. Exactly.

18 Q. So why did he send you his report,
19 if you know, before you were going to be
20 retained?

21 MR. BROWN: Object to the form.

22 Object, beyond the scope of the witness.

23 Notwithstanding, you can answer, if
24 you know.

25 A. I think just to understand the case

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1 B. SALANI

2 and to know what was the content of the songs
3 and just to understand.

4 Q. When you finished reviewing his
5 report, approximately --

6 MS. LEPERA: Withdrawn.

7 Q. How much time transpired between
8 when you reviewed his draft report and you
9 were approached to be retained in this matter?
10 A month? Two weeks? Do you recall generally?

11 MR. BROWN: Object to the form.

12 A. Many months.

13 Q. Many months transpired between
14 seeing his draft report and when you were --

15 A. When I did this report. But before
16 this --

17 Q. I'm sorry. No, I was asking
18 before -- not when you did the report. I'm
19 asking you how much time transpired between
20 when he called you, showed you his draft
21 report and you were contacted then to be
22 retained?

23 MR. BROWN: Object to the form.

24 A. I don't remember exactly.

25 Q. Approximately is fine.

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1 B. SALANI

2 Days? Weeks? Months? Years?

3 A. I would say, um, weeks. I would
4 say weeks.

5 Q. Did you tell Mr. Calello, after you
6 saw his draft report but before you were
7 retained, that you were willing to take the
8 assignment?

9 MR. BROWN: Object to the form.

10 A. Could you repeat the question?

11 Q. Yes.

12 A. Please?

13 Q. Did you tell Mr. Calello, after you
14 saw his draft report but before you were
15 retained, that you were willing to take the
16 assignment?

17 MR. BROWN: Object to the form.

18 A. Yes.

19 Q. Okay. And you said you were
20 willing to take the assignment before you did
21 your report, correct?

22 MR. BROWN: Object to the form.

23 A. Correct.

24 Q. Okay. Now, this document that
25 we've got here as Salani 5 contains a complete

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2 statement of all of your opinions and the
3 bases therefor, correct?

4 A. Correct.

5 Q. And it contains no exhibits other
6 than your bio, correct?

7 A. Correct.

8 Q. Okay. Do you see any list of
9 materials reviewed in this report upon which
10 you based your opinions?

11 A. Can you rephrase the question,
12 please?

13 Q. Okay. This report does not state
14 any of the materials that you reviewed in
15 preparing it, correct?

16 A. Correct.

17 Q. And certainly it doesn't mention
18 Mr. Calello's report, correct?

19 A. Correct.

20 Q. Okay. There's no information in
21 the report or any exhibit regarding your
22 compensation in connection with this matter,
23 correct?

24 A. Correct.

25 Q. And there's no information in this

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2 report or any exhibit to it, including the CV,
3 that states that you have no prior testimony
4 in any other cases, correct?

5 A. Correct.

6 Q. But there are none, correct?

7 A. Correct.

8 Q. Okay. Did you show a draft of this
9 report to anyone other than counsel?

10 A. Yes. I sent my report to the
11 counsel once I drafted it.

12 Q. Other than counsel?

13 A. No.

14 Q. Did you send the draft report to
15 anyone other than counsel?

16 A. No, I didn't.

17 Q. Did you tell Mr. Calello you were
18 doing the assignment?

19 A. Well, when he called me to ask me
20 would you like to do this, I said yes.

21 Q. I understand.

22 A. And that was it.

23 Q. I understand. Then you were
24 contacted weeks later, correct?

25 A. Yeah.

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2 Q. And you said yes, I will do it,
3 correct?

4 A. Correct.

5 Q. And then you started doing your
6 report, correct?

7 A. Correct.

8 Q. Okay. You're not a lawyer,
9 correct?

10 A. Correct.

11 Q. Or a judge, correct?

12 A. Correct.

13 Q. And as we discussed earlier, it's
14 not your role --

15 A. It's not my role.

16 Q. Let me finish.

17 -- to be providing comments or
18 conclusions about a legal matter, correct?

19 MR. BROWN: Object to the form.

20 A. Correct.

21 Q. So in the second full paragraph
22 after the first three paragraphs above, which
23 are numbered, so the second full paragraph on
24 page 1 says, quote: "The objective of this
25 report is to investigate and document

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2 instances of copyright infringement."

3 "The analysis demonstrates that
4 there are significant musical similarities
5 between Wiggle and Giggle All Night, Don
6 Diablo and Levitating that constitute
7 copyright infringement."

8 You have no expertise to determine
9 whether something constitutes copyright
10 infringement, do you?

11 A. No, I don't.

12 Q. This has no place in your report,
13 correct?

14 A. Can you say that again?

15 Q. This has no proper place in your
16 report, as you are not qualified to make that
17 assessment, correct?

18 A. Correct.

19 Q. Why is it here?

20 A. Okay. I was -- okay. The scope of
21 my assignment was to analyze and investigate
22 objectively on the songs Wiggle and Giggle,
23 Don Diablo, and Levitating.

24 Everything that has to be doing
25 with legal practices is up to the lawyers and

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2 to the legal experts. I'm aware of that.

3 So this paragraph, I should have
4 said it differently.

5 Q. We can agree, can we not, that you
6 shouldn't have any opinion in here that
7 there's copyright infringement, correct?

8 MR. BROWN: Object to the form.

9 MO A. I agree that as a musicologist
10 expert I have to only have my report on the
11 musicological aspects.

12 MS. LEPERA: Move to strike.

13 Q. We can agree, can we not, that you
14 shouldn't have any opinion in here that
15 there's copyright infringement, correct?

16 A. Correct.

17 Q. But is it in fact the case that
18 throughout your report you talk about legal
19 cases and conclusions of law in several
20 instances, correct?

21 MR. BROWN: Object to the form.

22 A. Yes.

23 Q. And that is improper, correct?

24 MR. BROWN: Object to the form.

25 A. Yes.

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2 Q. Why did you do it?

3 A. Because in comparative studies,
4 when we are talking about an opera, I compare
5 operas with other operas. Here we are doing a
6 legal case.

7 So if I just, doing my research, I
8 just spread out my knowledge, trying to
9 understand what came before I came into
10 analyzing my case, that was only because of my
11 comparative studies background.

12 I know that this has not to be in
13 my report, but I just wanted to compare
14 oranges and oranges this time. Okay? That's
15 in a way of saying that that's the reason why
16 I did it.

17 But it's not up to me to judge or
18 to talk about that unless -- I mean, the legal
19 experts are the ones who are going to decide.

20 Q. How did you make a decision that
21 this was improper?

22 MR. BROWN: Object to the form.

23 A. Can you please ask -- repeat your
24 question?

25 Q. We've already established that it's

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2 improper for you to be discussing legal
3 conclusions and assertions that there's
4 copyright infringement in your report,
5 correct?

6 A. Correct.

7 Q. Okay. And you've now stated why
8 you believe you did that.

9 My question is: When did you come
10 to the conclusion that it's improper? Just
11 now?

12 A. Recently, yes.

13 Q. When does "recently" mean?

14 A. Yes, when I -- I -- I read recently
15 the Ferrara report that was given to me before
16 I came here.

17 Q. So you agree with me there are many
18 things in this report that speak to legal
19 conclusions, correct?

20 MR. BROWN: Objection.

21 Q. "This report" meaning Salani 5.

22 MR. BROWN: Object to the form.

23 A. Yes.

24 Q. Okay. I am going to show you what
25 we're marking as exhibit 6 and walk through --

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2 and walk through certain passages from your
3 report we have highlighted -- these are our
4 highlights, for the record --

5 A. Mm-hmm.

6 Q. -- which I am going to ask you
7 about as to whether, like the conclusion on
8 page 1, you concede is -- you concede may be
9 inappropriate for your role here.

10 A. I agree.

11 (Salani Exhibit 6, Report of
12 Barbara Salani, highlighted version was
13 marked for identification.)

14 Q. With all of them? You've looked at
15 them already?

16 A. No.

17 Q. Okay. One by one. Let's go to
18 page 2.

19 So we have highlighted in the first
20 full paragraph the sentence: "Figure 1 shows
21 its thematic sentence which reflects its own
22 distinct melodic complexity that satisfies any
23 originality requirement ..."

24 Is that a legal conclusion?

25 A. That's -- that came after my

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2 analysis of the melodic sentence of the song.

3 Q. Originality requirement under what?
4 Law? There's no requirement anywhere else,
5 is there?

6 MR. BROWN: Object to the form.

7 A. Maybe you're right. I am not --

8 Q. Okay.

9 A. I am not the legal expert. I don't
10 know about that.

11 Q. There's no requirements, other than
12 under a legal assessment, relative to this
13 case, is there?

14 A. I'm not an expert. I cannot answer
15 you.

16 Q. Okay. Let's go back to the
17 page 2 -- this one doesn't have -- we didn't
18 put page numbers on this one. My apologies.
19 But this is the second page.

20 Last sentence, first full
21 paragraph. Quote: "Combining its captivating
22 distinct melody and rhythmic pattern with the
23 symbiotic relationship between syllable and
24 note in its fast, dynamic tempo, WG's opening
25 sentence is unique, protectable for copyright

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2 law, for its original blending of musical
3 features that contributed to its global
4 success back in the 1970s."

5 You're not qualified and have no
6 role in determining what's protectable under
7 copyright law, correct?

8 A. Correct.

9 Q. So this should not be here,
10 correct?

11 MR. BROWN: Object to the form.

12 A. Correct.

13 Q. The third page.

14 "Consequently, having established
15 the identical nature of DD and WG, the authors
16 Linzer and Brown were awarded 100 percent
17 worldwide copyright ownership of the song 'Don
18 Diablo,' evidencing that the songs Don Diablo
19 and WG are identical."

20 Are you testifying here that you
21 know that there was a judgment in that case?

22 A. Yes.

23 Q. How do you know there's a judgment
24 in that case?

25 A. That is the question I told you

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2 about before when I said that I asked Calello
3 about what happened, and he said -- and he
4 gave me information about that.

5 But none of us is a lawyer, so ...

6 Q. You have no personal knowledge of
7 any award of copyright ownership, do you?

8 A. No.

9 Q. Okay. So this is something that is
10 written based on what Mr. Calello told you?

11 A. Exactly.

12 Q. Page 5, fourth paragraph, last
13 sentence. Quote: "However, its positioning
14 at the very start of both pieces makes the
15 copying substantially more likely and
16 intentional."

17 You're not qualified and able to
18 opine on what constitutes copying under
19 copyright law, are you?

20 A. No, I'm not.

21 Q. That shouldn't be there either,
22 correct?

23 MR. BROWN: Object to the form.

24 A. No, it shouldn't.

25 Q. Thank you.

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2 Okay. Let's go to page 7. At the
3 top of the page, quote: "Usually, if someone
4 creates new lyrics for a musical theme of a
5 song that already exists, it's seen as a
6 parody. Parodies have some legal protections,
7 but they are also subject to legal
8 requirements and permissions if you intend to
9 profit from them."

10 You're not qualified to be opining
11 with respect to what constitutes a legal
12 parody, are you?

13 A. Exactly.

14 Q. You are not, correct?

15 A. I am not.

16 Q. This shouldn't be here either, this
17 sentence?

18 A. That shouldn't be there either.

19 Q. And who gave you that information?

20 A. Through research.

21 Q. Independent research --

22 A. Independent research.

23 Q. -- that you were looking at legal
24 matters?

25 A. I just wanted to compare what

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2 happened before I got into this. This is the
3 first time I'm asked to do this job, and I
4 just wanted to be informed, because this is
5 something that, when you -- well, when you
6 study, usually this information is not
7 available to you.

8 Q. Okay. Going down on the page,
9 there's a sentence that begins: In the past,
10 on the case My Sweet Lord, the court found --
11 I don't need to read the rest of that
12 paragraph.

13 A. Exactly.

14 Q. It shouldn't be there, yes?

15 A. No, it shouldn't be there.

16 Q. You have no right to put that in
17 this report --

18 A. Exactly.

19 Q. -- because you have no
20 qualifications with respect to doing so and it
21 is not your role to opine on legal matters in
22 this case, correct?

23 A. Exactly.

24 Q. Okay. The same with the last
25 paragraph on this page. Would you agree that

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2 that is also an inappropriate legal
3 conclusion?

4 MR. BROWN: Object --

5 A. Yes, I agree.

6 MR. BROWN: -- to form.

7 A. I agree.

8 Q. Page 10. Looking at the first
9 paragraph, starting with "Many popular songs,"
10 et cetera, quote, "are not protected by
11 contemporary copyright laws. It's worth
12 noting that adaptations of public domain pieces
13 can still be protected by copyright laws."

14 Do you agree with me that this
15 paragraph as well is something that you are
16 not qualified to make and it is not a role of
17 an expert to be opining on legal matters?

18 A. Yes, I agree with you.

19 Q. And this should not be here;
20 correct?

21 A. Yes, correct.

22 Q. Similarly to the third paragraph:
23 "In conclusion, upon rigorous examination" --
24 et cetera -- "the evidence lends considerable
25 weight to the claim made by Linzer and Brown

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2 regarding copyright infringement."

3 Again, this is not appropriate, for
4 an expert to be discussing what does or does
5 not constitute copyright infringement,
6 correct?

7 A. Exactly. Yes.

8 Q. This should also come out?

9 A. Yes.

10 Q. Now, the next two points. And,
11 again, the second -- the last phrase in the
12 sentence, "adding another layer to the case of
13 infringement." Do you see that?

14 It should not be in this report
15 either, correct?

16 A. Correct.

17 Q. And finally the last sentence that
18 we've highlighted, which ends with "making the
19 case for copyright infringement."

20 That should not be in this report
21 either, correct?

22 A. Correct.

23 MR. BROWN: Object to the form.

24 A. Correct.

25 Q. For all of the same reasons:

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2 You're not qualified to be opining on that, it
3 is not your role in this case?

4 A. On the law part?

5 Q. Yes.

6 A. Yes. I agree.

7 Q. So we've established there are many
8 elements in this report that engage in
9 discussions about what constitutes copyright
10 infringement, correct?

11 A. Correct.

12 Q. That should not be there, correct?

13 MR. BROWN: Object to the form.

14 A. Correct.

15 MS. LEPERA: Good time for lunch?

16 Let's do it. 12:31.

17 THE VIDEOGRAPHER: We're now going
18 off the record. The time is 12:32 p.m.

19 (Lunch recess taken at 12:32 p.m.)
20
21
22
23
24
25

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2 A F T E R N O O N S E S S I O N

3 (Time noted: 1:21 p.m.)

4 THE VIDEOGRAPHER: We are back on
5 the record. The time is 1:21 p.m. This
6 is the beginning of the media labeled
7 number 3.

8 - - -
9

10 BARBARA SALANI,

11 resumed as a witness, having been
12 previously sworn by a Notary Public,
13 was examined and testified further as
14 follows:

15 CONTINUED EXAMINATION

16 BY MS. LEPERA:

17 Q. Okay. Back after lunch, good
18 afternoon.

19 A. Excellent.

20 Q. Are you feeling okay?

21 A. Yes.

22 Q. Okay, good.

23 A. Thank you.

24 Q. So we're going back to your report,
25 Salani 5. Salani exhibit 5. You can take

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2 away the Salani exhibit 6. There you go.

3 Salani 5.

4 On the first page you reference the
5 song Wiggle and Giggle All Night in paragraph
6 1, correct?

7 A. Yes.

8 Q. Yes?

9 A. Yes.

10 Q. And then paragraph 2 you reference
11 Don Diablo, correct?

12 A. Yes.

13 Q. And then in the third paragraph you
14 refer to Levitating.

15 Do you see that?

16 A. Yes.

17 Q. Okay. So as we go through this
18 deposition I am just going to refer to Wiggle
19 as -- Wiggle and Giggle All Night as just
20 "Wiggle."

21 You'll know what I mean, correct?

22 A. Yes.

23 Q. Is that okay?

24 A. That's fine.

25 Q. Okay. And Don Diablo I'll refer to

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2 as "Don Diablo." And Levitating is
3 "Levitating." Okay?

4 A. Okay. Thank you.

5 Q. So those are the three compositions
6 that we are speaking about in this report,
7 correct?

8 A. Correct.

9 Q. Okay. Now, with respect to each of
10 these three compositions, am I not correct
11 that you did not transcribe in this report the
12 entirety of those three works?

13 A. Correct.

14 Q. You did not do that, correct?

15 A. I did not do that.

16 Q. Okay. And similarly, in this
17 report you did not, with full transcriptions,
18 analyze or compare all the similarities and
19 differences between the three works in their
20 entirety, correct?

21 A. Correct.

22 Q. Didn't do that, right?

23 A. Exactly. But can I tell you why?

24 Q. No.

25 A. Okay.

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2 Q. Okay. Similarly, in connection
3 with the three compositions there's no
4 analysis of their structures, correct?

5 A. Correct.

6 Q. And there's no discussion in the
7 report with respect to any of these three
8 compositions concerning their overall
9 melodies, correct? Overall, throughout?

10 A. Throughout the whole composition do
11 you mean?

12 Q. Yes.

13 A. Correct.

14 Q. And with respect to harmony am I
15 correct that there's no discussion for any of
16 those three works at all about harmony in the
17 report?

18 A. Not really. If you can go to
19 page 2 --

20 Q. Yes.

21 A. -- when I put -- insert the
22 fragment of the Wiggle and Giggle motive I
23 have the D major, A major, A major above the
24 chords -- above the melody. Those are the
25 chords.

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2 Q. Right. There's no discussion of
3 any harmony, correct?

4 A. Not really. I -- I say that it
5 goes from tonic to dominant and to tonic, and
6 it is a discussion.

7 Q. Where does it say tonic and
8 dominant anywhere?

9 A. "In the dominant note (A) which
10 proceeds upwards" -- the mediant -- okay.

11 Q. So you identify the chord -- I can
12 see where you're saying.

13 You're saying on the top of page 3.

14 So you identify the chords --

15 A. Yes.

16 Q. -- but you don't do any discussion
17 with respect to the element of harmony
18 generally between -- with respect to all of
19 the three works in the report?

20 A. Exactly.

21 Q. Okay. And there's nothing in your
22 report at all about any investigation by you
23 of any extant musical literature, other than
24 those three compositions, that you conducted,
25 correct?

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2 MR. BROWN: Object to the form.

3 A. Can you repeat the question,
4 please?

5 Q. There's nothing in this report
6 about any investigation by you independent of
7 music literature outside of those three
8 compositions, correct?

9 A. Correct.

10 Q. Okay. I am going to have to repeat
11 the question, because Frank got it wrong.

12 There's nothing in this report
13 about any investigation by you independently
14 into any music literature outside of those
15 three compositions, correct?

16 A. Correct.

17 Q. Okay. Let's now go and talk about
18 the transcriptions.

19 There's eight transcriptions that
20 are in your report proper, starting with
21 figure 1, figure 2, figure 2A, 3, 3A, 4 -- I'm
22 not counting Beethoven -- 6A and 6B.

23 Those are transcriptions that
24 you've proffered, is that correct?

25 A. Correct.

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2 Q. Did you prepare those
3 transcriptions?

4 A. Yes --

5 Q. Personally?

6 A. Yes, I did.

7 Q. Okay. Each of them, is that
8 correct?

9 A. Correct.

10 Q. And how did you do that?

11 A. Through listening the songs, and
12 then through software notation with
13 Sibelius 7.

14 Q. And you say on page 1, the last
15 full paragraph -- I'm sorry, the last full
16 paragraph.

17 The last paragraph starts with
18 "Each track."

19 A. Mm-hmm.

20 Q. "... included in this testimony
21 report was replicated from its initial
22 recording and converted into musical notation
23 for comparative analysis."

24 Do you see that?

25 A. Mm-hmm.

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2 Q. Okay.

3 A. Yes.

4 Q. So you say "each track."

5 When you're talking about tracks,
6 what are you referring to?

7 A. To the videos that I -- I talked
8 about in 1, 2 and 3.

9 Q. Right.

10 A. The videos that --

11 Q. And those are of the full songs,
12 correct?

13 A. Those are full songs.

14 Q. Okay. So when you say here "Each
15 track" was converted into musical notation,
16 that's not the case in this report, correct?

17 A. The whole track was listened and
18 analyzed. Then when I was analyzing, I can
19 tell you also where it's written in the --

20 Q. Let me help you here. My question
21 is not about what you listened to. My
22 question is what you wrote.

23 It says, "Each track" -- "each
24 track" -- "was replicated from its initial
25 recording and converted into musical

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2 notation." "Each track" meaning each track.

3 So that is either not accurate or
4 it's not contained in your report, correct?

5 A. Okay. Maybe it's not --

6 MR. BROWN: Object to the form.

7 A. -- it's not accurate because I
8 decided to take into consideration only a part
9 of it and not the whole song.

10 And that can be done in
11 musicological studies, as I was telling you
12 before, trying to tell you; that, um, in the
13 New Grove Dictionary of Music, volume 1, page
14 342, it says that you can take the whole piece
15 or you can take part of the piece.

16 So I --

17 Q. I'm sorry, Ms. Salani, I really
18 hate to do this to you, but that's not an
19 answer to my question. I know you want to say
20 something here to defend what you have done,
21 but that's not my question.

22 MR. BROWN: Objection.

23 Q. My question is very simple.

24 It says each track was converted
25 into musical notation.

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2 That's not accurate, is it?

3 MR. BROWN: Object to the form.

4 A. No, that's not accurate.

5 Q. Thank you. That was my question.

6 A. Mm-hmm.

7 Q. But you said you did that, correct?

8 A. I said I did part of the whole
9 thing. I didn't do the whole thing. I did
10 the part that I, through listening and through
11 analyzing, I was certain that that was the
12 part that was more accurate to include in my
13 report.

14 Q. Do you see anywhere in here where
15 it says I only converted part of the track
16 into musical notation?

17 A. No, I don't see that.

18 Q. So you didn't say that, did you?

19 A. I didn't say it.

20 Q. Okay.

21 A. I'm telling you now.

22 Q. I am not asking you now.

23 A. Okay.

24 Q. Okay. So now you've put the
25 transcriptions in particular key

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2 signatures; yes?

3 A. Yes.

4 Q. Okay. On what basis did you decide
5 which key signatures to use?

6 A. Well, analyzing the three songs and
7 looking at the key signatures, I saw that
8 Levitating was in B minor and the other two
9 songs were in a major key. So I chose the
10 relative key transcriptions to compare them
11 with the same key signature.

12 Q. So you decided to just stick with
13 the key of Levitating as the beginning point?

14 A. Yes.

15 Q. Okay. But you could have put it in
16 any major and minor key to compare, correct?

17 A. Exactly. I could have done that.

18 Q. Okay.

19 A. Yes. Why not.

20 Q. Okay. So now are you aware there's
21 two claims in this case, or no?

22 A. No.

23 Q. Okay. Are you aware that there's a
24 claim that Levitating infringes -- infringes
25 on Wiggles? Are you aware of that claim?

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2 Or not?

3 A. Well, I was not aware exactly about
4 that, no.

5 Q. Okay. And then there's a second
6 claim that Levitating allegedly infringes on
7 Don Diablo.

8 A. Yes.

9 Q. You did not know that there was a
10 claim that it infringes on Wiggles?

11 A. On Wiggles? Well, I knew that
12 Wiggle and Don Diablo had already been
13 established in a case before, so I thought
14 this time it was about the composers that were
15 assigned the two pieces and now they were
16 against Levitating. I didn't know it was
17 completely on the Wiggle and Levitating and
18 then Don Diablo and Levitating. I thought
19 that was one part that was the same thing.

20 Okay? That were --

21 Q. Because Mr. Calello told you,
22 correct?

23 A. Correct.

24 Q. Okay. And therefore, do you see
25 how you have done similarity comparisons

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2 between Don Diablo and Levitating on pages 3,
3 et cetera, moving forward? You have that,
4 right?

5 A. Yes.

6 Q. You have nothing like that with
7 respect to Wiggles and Levitating, correct?

8 A. Exactly.

9 Q. Okay. So there's no transcriptions
10 whatsoever in your report showing any
11 comparison between Wiggle and Levitating,
12 correct?

13 A. Correct.

14 Q. Okay.

15 A. But I can provide that to you if --
16 if you need it.

17 Q. That's not how it works, but that's
18 okay.

19 So just to be clear, we have
20 nothing in this report that compares, even in
21 a portion, directly of the melody of Wiggles
22 and Levitating, correct?

23 A. Correct.

24 Q. We have nothing in this report that
25 compares even in an excerpt the rhythms of

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2 Wiggles with Levitating, correct?

3 A. Correct.

4 Q. And there's nothing in this report
5 that compares the harmonies between Wiggle and
6 Levitating directly, correct?

7 A. Correct.

8 Q. And there's nothing in this report
9 that compares the harmonic rhythms of Wiggles
10 to those of Levitating in this report,
11 correct?

12 A. Correct.

13 Q. Okay.

14 (Salani Exhibit 7, Excerpted page
15 of Figure 1 was marked for
16 identification.)

17 BY MS. LEPERA:

18 Q. We're going to mark for
19 identification as exhibit 7 an excerpted and
20 blown up page of your figure 1, and I am
21 asking you if this is accurately reflected as
22 such?

23 A. Yes, it is.

24 Q. Okay, great. And you prepared this
25 transcription yourself you said, correct?

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1 B. SALANI

2 A. Correct.

3 Q. Okay. So remember you said in your
4 report, and we talked about this earlier --
5 now I have to find it. Yes, on page 3.

6 And you can look at page 3 of
7 exhibit 5, Ms. Salani.

8 A. Mm-hmm.

9 Q. Okay. Do you see where you have
10 said here, and you discussed this a bit
11 earlier, but do you see where it says that Don
12 Diablo and Wiggle are identical?

13 A. I see it.

14 Q. Okay. So now let's go back and
15 look at figure 1.

16 MS. LEPERA: Sorry, one second.

17 Q. Now let's look at page 2 of your
18 report, and there is a discussion about Wiggle
19 in the first full paragraph, and you talk
20 about the, quote, "uniqueness of the musical
21 motif."

22 Do you see that?

23 A. Yes.

24 Q. In the middle of the paragraph, and
25 we looked at this earlier as well, but it

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1 B. SALANI

2 says, quote, "From F-sharp starts a four
3 repeated 16th notes pattern descending every
4 beat, with slight variations and syncopation
5 that make this motive original and
6 compelling."

7 Do you see that?

8 A. I do.

9 Q. Okay. Now what I would like to do
10 with you, if you could -- I am going to give
11 you a red pen, and I am going to ask you to
12 please circle on figure 1 in red what are the
13 slight variations and syncopation apart from
14 the repeated 16th note pattern?

15 A. Should I write also the
16 syncopation?

17 Q. You could -- I would like you to
18 circle everything that is not just a straight
19 four-note repeat 16-note pattern.

20 A. Okay.

21 (The witness complied.)

22 A. So what is "V" is a variation, a
23 slight variation, and where it's "S" is
24 syncopation.

25 It's not the linear for -- exact

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1 B. SALANI

2 for 16 notes, right? That's what you meant.

3 So this is not comparing to any other song.

4 Q. Right.

5 A. This is just analyzing the song.

6 Q. Correct.

7 A. So the slight variations is what is
8 not repeating the same pitch of the four 16
9 notes. And the syncopation was with the tie
10 from one bar to the other. That's the
11 syncopation.

12 Q. Okay. All right. You didn't
13 circle the C note in measure 10. That's not a
14 16th note, is it?

15 A. Measure 10. Oh, okay. That's a
16 rhythmic variation. It's not a pitch. I was
17 thought -- I was thinking about the pitches.
18 Okay.

19 So you mean also the --

20 Q. Any variation from the 16th note
21 pattern.

22 A. Okay. Yeah.

23 (The witness complied.)

24 Q. Of four repeated notes.

25 A. Okay. Since there are two

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1 B. SALANI

2 sentences. One ends here. The other ends
3 there. I'm not including the two eight notes
4 after this repeated 16 notes. Okay? That
5 was it.

6 Q. You're not including -- you're
7 taking those out, correct?

8 A. The -- I mean, those are part of
9 the sentence. And the sentence ends with an
10 eighth note. So the repeated notes are up to
11 bar -- let's say up to the second beat of bar
12 11 here.

13 Can I do the sentences?

14 Q. Hold on one second. I'm asking
15 you -- okay. Here's -- let's start over.

16 You say in your report --

17 A. Mm-hmm.

18 Q. -- "From F-sharp" -- which begins
19 on what you called measure 10 --

20 A. Okay.

21 Q. We can talk about that later.

22 F-sharp, and then you say there's
23 "four repeated 16th notes descending every
24 beat, with slight variations in syncopation."

25 A. Mm-hmm.

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1 B. SALANI

2 Q. What I am asking you is to take out
3 what are not four repeated 16th notes.

4 A. Okay.

5 Q. Because that's what you said this
6 was.

7 A. Okay, so this is also not repeated
8 16th notes. And this one as well.

9 Q. Okay. What I am asking, why didn't
10 you circle this? This is in bar 11. You have
11 three 16th notes. That's not four notes, is
12 it?

13 A. That's right.

14 Q. So why don't you circle that?

15 A. Well, because -- that's right.
16 Notes. I was thinking about the rhythm, we
17 have the 16 -- the 16th rest. But those
18 are -- that's not a note. So there are three
19 instead of four. So yeah, this is one of the
20 slight variations as well.

21 I can still do the rest.

22 Q. Thank you so much.

23 Okay. And of course the last two
24 notes are also not four repeated 16th notes,
25 are they?

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1 B. SALANI

2 A. That was the pickup to the new
3 sentence.

4 Q. That's the pickup, okay.

5 So let's now take a look at
6 figure 2. You can hold that over there.

7 MS. LEPERA: Why don't we mark --
8 what is this 8? I'm up to 8?

9 (Salani Exhibit 8, Excerpt of
10 Figure 2 was marked for identification.)
11 BY MS. LEPERA:

12 Q. Okay. Ms. Salani, I am giving you
13 now Salani 8, another blowup of a portion of
14 your report on page 33. I'm sorry. Page 2.
15 Coffee time. Page 2. And it starts with your
16 sentence, "Let's continue by juxtaposing
17 DD" -- Don Diablo -- "on the upper staff and
18 Wiggles on the lower staff, trying to analyze
19 their common traits."

20 Do you see that?

21 A. Yes.

22 Q. So now what I would like you to do
23 is walk us through with the red pen again and
24 circle everything that is different between
25 Don Diablo and Wiggles.

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1 B. SALANI

2 (The witness complied.)

3 Q. I could help you. We can walk it
4 through together.

5 If you obviously start with what
6 you've got as number 10 with the four
7 F-sharps --

8 A. Exactly.

9 Q. Okay? Then you've got the E,
10 F-sharp --

11 A. Exactly.

12 Q. You've got to take that F-sharp
13 out; correct?

14 A. I took out also the D.

15 Q. The D? The tie of the D?

16 A. The tie of the D.

17 And then the D in the fourth beat.
18 And the C, not because of the pitch but
19 because of the rhythm --

20 Q. The rhythm, it's an eighth note,
21 correct?

22 A. Yes.

23 Q. So that comes out?

24 A. That comes out.

25 Q. Okay.

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1 B. SALANI

2 A. And then moving forward we have the
3 three upbeats.

4 Q. In measure 11?

5 A. Yes.

6 Q. You should take out the last three
7 notes, correct?

8 A. Exactly. The three upbeats. The
9 A, A, A.

10 And then the last note of the third
11 beat is not identical, and the last note of
12 the fourth beat either.

13 Q. In measure 12, your measure 12,
14 correct?

15 A. Yes, correct.

16 Then on measure 13, the second
17 beat, the B and --

18 Q. And the E?

19 A. -- the E.

20 Q. Correct.

21 A. Well, the B and the C. It's a C.

22 Q. B and the C, correct.

23 A. And then -- the B's there. And we
24 have the A in common.

25 And then we have the two -- the two

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1 B. SALANI

2 16 notes --

3 Q. Which are not the same with the
4 eighth note above, correct?

5 A. Exactly.

6 Q. Okay. So you have now circled all
7 the differences between -- not even getting
8 into anything else, but just from your
9 transcriptions alone, you've now circled all
10 the -- you've identified all the differences
11 in these four measures between Don Diablo
12 and --

13 A. Wiggle.

14 Q. -- Wiggles reflected on your own
15 transcription, correct?

16 A. Correct.

17 Q. But you don't discuss any of these
18 in your report, do you?

19 A. I say that there are these minor
20 variations and also differences. But I
21 don't --

22 Q. Show me where you say there's
23 differences between Don Diablo and Wiggles.

24 A. Okay. Let me see.

25 I talk about the harmonic

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1 B. SALANI

2 progressions here, the similarities. Let me
3 see before.

4 "They share the same melodic
5 motive, harmonic and rhythmic pattern, moving
6 in the same direction and with the same
7 features. Outside the basic lyrical
8 difference -- differences that force rhythmic
9 changes and minor variations, the feeling, the
10 drive and the melodic phrases are virtually
11 identical."

12 Q. And you also call them identical,
13 don't you?

14 A. It was not me. It was just coming
15 to conclusion after I heard about the 100
16 percent worldwide copyright ownership of the
17 same authors. I said that after I stated that
18 I knew that. But that doesn't mean that I
19 said it. That means that it was granted to
20 the author.

21 So I have no idea what happened in
22 that case, and it was just a conclusion that
23 came about. And I told you to remove that,
24 just was because it was my supposition.
25 Remove that from this, before I told you.

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1 B. SALANI

2 Q. Okay. With all due respect,
3 Ms. Salani, there's nothing in your report
4 highlighting the one -- one, two, three, four,
5 five, six, seven, eight, nine, ten, eleven,
6 twelve -- thirteen differences between Don
7 Diablo and Wiggles, correct?

8 MR. BROWN: Object to the form.

9 Q. I think I counted that right.
10 Thirteen you circled. Notes. In some form.

11 A. Exactly.

12 Q. Okay. "Exactly" there's nothing in
13 your report on that, correct?

14 A. Yes.

15 Q. Okay. But yet you say in your
16 report they're essentially identical, correct?

17 A. "Virtually identical." Those were
18 my -- my words. Yes.

19 Q. Could you tell me what sections of
20 the songs these transcriptions come from?

21 A. Yes.

22 Q. Which?

23 A. In incipit of the song, when the
24 text starts being displayed, sung by the
25 singers.

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1 B. SALANI

2 Q. Okay. Do you understand the
3 concept of introduction?

4 A. I do.

5 Q. Do you understand the concept of
6 chorus?

7 A. I do.

8 Q. Do you understand the concept of
9 verse?

10 A. I do.

11 Q. Do you understand the concept of a
12 bridge in a composition?

13 A. I do.

14 Q. Okay. Are these from the
15 introductions of Wiggle and Don Diablo?

16 A. No. Those are from the verse.

17 Q. Are there vocal melodies in the
18 introductions of Wiggle and Don Diablo?

19 A. No, they are not. In the
20 introduction -- you mean the introduction is
21 usually the instrumental part that leads to
22 the first verse where the song starts -- the
23 singer starts singing the song.

24 Q. So is it your testimony here that
25 there's no vocal in the introduction of Don

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1 B. SALANI

2 Diablo and no vocal in the introduction of
3 Wiggle?

4 A. There is a chorus that states some
5 of the -- some melodies. But those words are
6 not -- are not lyrics, like accompaniment to
7 the instrumental part.

8 Q. Do you know how much measures there
9 are in the introduction of Wiggle?

10 A. Eight measures. And also in Don
11 Diablo.

12 Q. Eight measures in Don Diablo?

13 A. Yes.

14 Q. Are you sure?

15 A. I -- I recall that there are eight.

16 Q. And how long is the introduction in
17 Levitating?

18 A. Only four measures.

19 Q. So why do you call it measure 9 and
20 10?

21 A. Okay. Because when you write the
22 measure in your, let's say in Sibelius, the
23 measure has to be, like, the same measure for
24 both -- I don't know if it happened to you.
25 You start from the ninth measure and -- and so

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1 B. SALANI

2 it has to be one above the other. They have
3 to be the same measure.

4 I agree with you in the same -- in
5 the saying that that was not the ninth measure
6 in Levitating. But putting Don Diablo above,
7 I had to use the same measurements also for
8 Levitating.

9 Q. So you are not capable of writing
10 the accurate measures over your transcriptions
11 that actually are in the songs reflecting
12 their correct introductory length?

13 MR. BROWN: Object to the form.

14 Q. Just because the computer program
15 spits out these other measures?

16 A. Well, in my case, yes, I was not
17 able to change the number of the -- of the
18 measures.

19 Q. Why not?

20 A. Because they have a way that the --

21 THE COURT REPORTER: Sorry.

22 A. The numbers of the bar were already
23 set in, in the ninth measure, and I could not
24 change the bar number.

25 Q. You could write in your report

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1 B. SALANI

2 it's only a four-measure introduction in
3 Levitating, not a nine-measure introduction,
4 could you not?

5 A. I could have done that, yes.

6 Q. And could you not have said this is
7 misleading to suggest that they start on the
8 same measure?

9 MR. BROWN: Object to the form.

10 A. I could have done that, yes.

11 Q. Okay. Let's go back -- let's go
12 back to the vocal melodies with respect to the
13 introductions of Wiggle and Don Diablo.

14 They actually have voices doing
15 something, correct, in those introductions?

16 A. Correct, they do.

17 Q. Okay. Levitating does not,
18 correct?

19 A. Correct.

20 Q. Okay. You don't say any of that
21 though, do you?

22 A. No, I don't.

23 Q. Okay. That's a difference,
24 isn't it?

25 A. Can I say something?

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1 B. SALANI

2 Q. No.

3 A. Okay.

4 MR. BROWN: You could answer the
5 question.

6 Q. Yes, I would like an answer.

7 That is a difference, is it not?

8 A. No.

9 Q. Oh, there's no difference between
10 one intro that has vocals and one that
11 doesn't? That's not a difference?

12 A. There is a small difference, but if
13 the vocals are used to narrate the story, it's
14 one thing. But the vocals are used as, let's
15 say, as "accompanying" with syllables that are
16 only there to -- to use the instrumental part.
17 That's what I mean by saying that it's not the
18 narrative of the song. It doesn't display the
19 real meaning and the text of the song. That's
20 what I mean. It's a chorus that's
21 accompanying the instrumentation.

22 Q. You say on page 5 of your report,
23 quote -- this is just comparing Don Diablo and
24 Levitating -- "Both songs commence with an
25 identical musical phrase."

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1 B. SALANI

2 That's not true, is it?

3 A. I'm talking about the incipit. And
4 that's --

5 Q. Excuse me. When you put the songs
6 on, do they both start in measure 1 of each of
7 those songs with that phrase that you've
8 transcribed? Yes or no.

9 A. Both songs don't start with those
10 measures I transcribed.

11 Q. That's the answer.

12 A. They start with the introduction.

13 Q. Okay. Again, I'm using your words,
14 and I am demonstrating to you that you
15 essentially omitted from your report and
16 misleadingly stated that both songs, Don
17 Diablo and Levitating, when you hit the track,
18 the first thing you hear is what you've
19 characterized as measure 9. And that's not
20 true, is it?

21 MR. BROWN: Object to the form.

22 A. No, it's not true.

23 Q. Okay. All right. Back to where we
24 were. Now let's go to figure 3.

25 (Salani Exhibit 9, Excerpt of

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2 Figure 3 was marked for identification.)

3 BY MS. LEPERA:

4 Q. Salani 9?

5 A. Yes.

6 Q. Thank you. Okay. Now I am going
7 to ask you again, is this an accurate blowup
8 of your figure 3 from your report?

9 A. Yes, it is.

10 Q. Okay. And on this can we write,
11 please -- okay, so the top staff is what song?

12 A. Don Diablo.

13 Q. Okay.

14 A. And the red one is Levitating.

15 Q. Can you write that on there for me?

16 (The witness complied.)

17 Q. Thank you.

18 Okay. So you've got red boxes
19 here; yes?

20 A. Yes.

21 Q. And the red boxes -- well, let's
22 just go back and make sure we're on the same
23 page with respect to what measures we're
24 talking about here.

25 In reality, you're saying

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1 B. SALANI
2 measure 9, which is the pickup of those two
3 notes, is accurate from Don Diablo, correct?

4 A. It's accurate from Don Diablo.

5 Q. But below it is not measure 9 from
6 Levitating, correct?

7 A. Correct. Levitating starts in
8 measure 10.

9 Q. We've established that there's a
10 four-bar intro, have we not?

11 A. Yes.

12 Q. So Levitating does not start with
13 this phrase in its measure 10, correct?

14 A. I should -- correct. I should say
15 the song -- the lyrics, the singers start
16 their song. Okay? Not the complete song.
17 Not the introduction.

18 Q. Can we please write the accurate
19 measure down for what this actually is in
20 Levitating as opposed to measure 10?

21 A. It would be 5, right?

22 Q. Can you please write that in?

23 (The witness complied.)

24 Q. And then nearby you have after
25 that, et cetera. Please fix the measure

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1 B. SALANI

2 numbers accordingly for the second staff.

3 (The witness complied.)

4 Q. Thank you. May I see what you've
5 done, please?

6 Thank you. I appreciate it.

7 Okay. And so there's no confusion
8 as to what you're actually doing there, can
9 you please cross out measures 10, 11, 12 and
10 13?

11 A. Yes.

12 Q. Thank you.

13 (The witness complied.)

14 Q. Okay. Great. So now we've got in
15 your measure 10 of Don Diablo and measure 5 of
16 Levitating a red box around five groupings of
17 four repeated 16th notes, correct?

18 A. Correct.

19 Q. Okay. And you've identified this
20 as four repeated 16th notes for every beat
21 moving in a descending motion, correct?

22 A. Correct.

23 Q. Step by step, correct?

24 A. Correct.

25 Q. Scale step by scale step, correct?

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1 B. SALANI

2 A. Scale step, yes.

3 Q. You don't talk about scale steps,
4 do you, anywhere in your report?

5 A. Yes, I do.

6 Q. Where are the scale steps
7 discussed?

8 A. You mean the -- here, at the
9 beginning. Page 2, here in the middle, when I
10 am saying that at the mediant or the 3rd
11 degree of the D-major scale -- there. It's
12 the mediant --

13 Q. That's about Wiggle?

14 A. That's about Wiggle.

15 Q. No, I am talking about between
16 Levitating -- we already established there's
17 no comparison between Wiggles --

18 A. Exactly.

19 Q. -- and Levitating, correct?

20 A. That's correct.

21 Q. Okay. So now we're talking about a
22 comparison between Don Diablo and Levitating,
23 correct?

24 A. Correct.

25 Q. There's no discussion about scale

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1 B. SALANI
2 steps in this comparison whatsoever, correct?

3 A. Correct.

4 Q. Okay. Now, if you would, and if
5 you can, what I would like you to do is --
6 we're in which keys here now? We're in the
7 key of --

8 A. We have B-minor for Levitating --

9 Q. Correct.

10 A. -- and D-major for --

11 Q. Correct.

12 A. -- Don Diablo.

13 Q. Okay.

14 A. They are in a relationship of
15 relative keys.

16 Q. Relative major -- relative minor to
17 the major?

18 A. Yes.

19 Q. So can you write down under Don
20 Diablo or next to it D-major?

21 A. It's written here. Look. D, A, D.
22 And here, B-minor -- no?

23 Q. I'm just the lawyer. But those are
24 the chord progressions. That's not the key
25 signature, is it?

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1 B. SALANI

2 A. The key signature, okay.

3 Well, yes. This is D-major. And
4 this is B-minor.

5 Q. Thank you. Can you now write in --
6 you know what a scale step is, right?

7 A. Of course.

8 Q. Do you know what a scale is?

9 A. Yes, of course.

10 Q. Okay. So you know there are seven
11 notes in a scale, correct?

12 A. Yes.

13 Q. A major scale and a minor scale,
14 you're familiar with those concepts, are you
15 not?

16 A. Yes. Yes, I am.

17 Q. There's different scale steps --

18 A. Mm-hmm.

19 Q. -- for each of these two works, are
20 there not?

21 A. Yes, there are.

22 Q. Can you write them in?

23 A. Yes.

24 Q. Let's do it.

25 A. So in the key of D-major, the first

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1 B. SALANI

2 two notes are the fifth --

3 MR. BROWN: While she's writing,
4 can I just step out for a second.

5 MS. LEPERA: That's up to you. If
6 you're okay doing that.

7 MR. BROWN: No questions while
8 she's writing.

9 MS. LEPERA: No problem.

10 MR. BROWN: Just give me like two
11 minutes.

12 MS. LEPERA: No problem.

13 (Mr. Brown exits.)

14 A. Should I write every note or just
15 the first one when it goes down?

16 Q. So you've got --

17 A. Like this. Look. Instead of
18 writing 2222, or 3333 --

19 Q. No, you just write it once. That's
20 correct. For each of the three groupings of
21 four.

22 A. That's okay?

23 Q. Yes, because we'll make it clear on
24 the record. But we'll wait until he comes
25 back, though.

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1 B. SALANI

2 A. Okay. Otherwise I can also repeat
3 that if you want. When it changes ...

4 (Mr. Brown enters.)

5 BY MS. LEPERA:

6 Q. Thank you.

7 MR. BROWN: Thank you. I'm back.

8 Q. Oh, okay. So I am going to give
9 you this back.

10 You did some scale steps on the
11 notes that are outside of your boxes?

12 A. Yeah. Did you ask me to do the
13 whole thing?

14 Q. I'm sorry.

15 A. Or not? Only --

16 Q. No, I wanted you to just do with
17 respect to what you did in comparison.

18 A. Oh, okay.

19 Q. So the comparative points you've
20 made are with respect to the red boxes only,
21 correct?

22 A. Yes.

23 Q. Okay. So within the red boxes --
24 it's fine that they're there. But within the
25 red boxes, you would agree with me, would you

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1 B. SALANI
2 not, that the scale steps for measure 10 in
3 Don Diablo and measure 5 in Levitating are
4 different?

5 A. The scales are different -- the
6 steps, yes, they are different.

7 Q. And with respect to -- okay.
8 So the pitches are the same as
9 transposed, correct?

10 A. Mm-hmm.

11 Q. Yes, of course. And they're scale
12 steps going down a scale?

13 A. Scale steps, yes.

14 Q. And in the second red box, you
15 don't have a red box above that for Don
16 Diablo?

17 A. Exactly.

18 Q. And when you say "exactly," that's
19 because all the pitches are different,
20 correct?

21 A. Exactly. The pitches are
22 different. But not the rhythmic pattern --

23 Q. Pattern of 16th notes?

24 A. Yes, pattern of 16th notes.

25 Q. So in addition to the scale steps

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1 B. SALANI

2 being different between measure 12 of
3 Don Diablo in your transcription figure 3 on
4 what you have now identified as measure 7 of
5 Levitating you have different pitches
6 entirely, correct?

7 So now could you write for me the
8 pitches that are different between measures 12
9 of Don Diablo and the corrected 7 measure of
10 Levitating?

11 A. Yes.

12 Q. I would appreciate that. You could
13 do it on top of the scale steps. So if you
14 have space.

15 A. Okay.

16 Q. Okay. So you've got E --

17 A. If they're not here, that means --
18 if they're not in the rectangle --

19 Q. In the red.

20 A. -- that means that they're
21 already -- every pitch is different here.
22 Okay?

23 Q. Yes. But I want you to identify
24 the difference in pitches between what you
25 circled in Levitating and what is directly

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1 B. SALANI

2 above it.

3 A. Okay. I see what you mean. But
4 what I mean --

5 Q. I understand what you're doing is
6 you're attempting to compare measure 7 with
7 measure 10. But I want you to compare it
8 with 12.

9 A. Okay, all right. So exactly
10 comparison of these two?

11 Q. Correct.

12 A. Okay. Should I say here, I mean,
13 all the pitches that Don --

14 Q. You could write it once, because
15 it's a repeated note. You could write E,
16 and ... I don't have to tell you.

17 A. Okay.

18 (The witness complied.)

19 Q. You're just crossing them out. I
20 want you to actually tell me what the pitches
21 are.

22 A. Oh.

23 Q. The pitches for Don Diablo in
24 measure 12 and the pitches for the 16th notes
25 in Levitating in measure 7.

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1 B. SALANI

2 A. Oh, okay. So I have to write down
3 the pitches?

4 Q. To illustrate the difference.

5 A. Okay. So here they're E, D ...
6 (The witness complied.)

7 Q. Thank you. Okay. So for the
8 record, what we have here is for measure -- I
9 should have you do it.

10 If you just could read into the
11 record what are the pitches in measure 12, of
12 the notes in measure 12, your measure 12 of
13 Don Diablo, and the pitches in what you've
14 remarked as measure 7 in Levitating on the
15 five repeated 16th notes stepped down.

16 A. Okay. Let's start with Don Diablo
17 in D-major. So bar 12 starts with four
18 repeated 16th notes with a pitch of E. Then
19 D. Then C-sharp. Then B. Then A.

20 Then there are two --

21 Q. You're out of the box. Just within
22 the box.

23 A. Within the box, okay.

24 Q. Again, just to be clear, you put
25 boxes there because that's what you're

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1 B. SALANI
2 claiming is relevant, and only that, correct?

3 MR. BROWN: Object to the form.

4 A. I put boxes because I wanted to
5 highlight when the -- the theme was coming
6 back. And that's another -- another thought.
7 It's different from analyzing only the notes
8 and their correspondence.

9 I'm talking about --

10 Q. I am talking about there's no box
11 between measure 11 and 6 because these notes
12 are all different, it's all different, right?
13 So that's why you didn't box it in?

14 A. Exactly.

15 Q. The same at the end, after this
16 box. All of that is not relevant, even in
17 your opinion, correct?

18 MR. BROWN: Object to the form.

19 A. Correct.

20 Q. Okay. So stay with the box. And
21 we're in the box.

22 So now you can stop at the end of
23 the 16th note. The fifth 16th four-note
24 repeat.

25 A. Okay. Let's start with Levitating

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1 B. SALANI

2 now. It starts with a pitch of F-sharp, goes
3 to E. Then to D. Then goes to C-sharp. And
4 then goes to B again.

5 Q. Okay. Good. And just for the
6 record, every single one of those pitches is
7 different, correct?

8 A. Exactly.

9 Q. Okay. Now, if you look at --
10 you've pointed them out before, you've got a D
11 and an A and then a subsequent D on the Don
12 Diablo, illustrating chord progressions,
13 correct? Otherwise known as harmony?

14 A. Exactly.

15 Q. Okay. Is there a harmonic rhythm
16 to those chord progressions?

17 A. There is a harmonic difference
18 between one and the other, yes. Of course.
19 From tonic we go to dominant and then to tonic
20 again.

21 Q. What is a harmonic rhythm?

22 A. A harmonic rhythm means the -- the
23 rhythm of the harmonic -- when they change
24 from one to the other. So the chord
25 progression, how they move.

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1 B. SALANI

2 Q. The harmonic rhythm of Don Diablo
3 is manifested by nothing more than one chord
4 change per measure, correct?

5 A. Yes.

6 Q. The harmonic rhythm, on the other
7 hand, of Levitating in certain instances has
8 two chords per measure, does it not?

9 A. Yes.

10 Q. That's a difference, is it not?

11 A. It is a difference.

12 Q. And you didn't explain any of that
13 in your report, did you?

14 A. No, I didn't.

15 MS. LEPERA: How about a break;
16 good time?

17 MR. BROWN: Sure.

18 THE VIDEOGRAPHER: We are now going
19 off the record. The time is 2:18 p.m.

20 (Recess taken.)

21 THE VIDEOGRAPHER: We are back on
22 the record. The time is 2:40 p.m. This
23 is the beginning of the media labeled
24 number 4.

25 (Salani Exhibit 10, Excerpt of

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2 Figure 6A was marked for
3 identification.)

4 BY MS. LEPERA:

5 Q. Do you still have Salani 9 in front
6 of you? Yes, where you --

7 MS. LEPERA: Oh, we're not on the
8 record, sorry. Are we on?

9 THE VIDEOGRAPHER: We are on.

10 MS. LEPERA: We are on? Okay.

11 Q. You have Salani 9 in front of you,
12 Ms. Salani?

13 A. Yes.

14 Q. Where you made all of the
15 handwritten notations.

16 A. Mm-hmm.

17 Q. Is it correct that those
18 handwritten notations that you made apply
19 equally to figures 6A and 6B?

20 A. They should. Let me see.

21 Here I was writing the lyrics.
22 Right?

23 Q. Other than the lyrics. I'm not
24 talking about the lyrics. I'm talking about
25 the handwritten changes that you made on 9 to

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1 B. SALANI
2 the music -- pitch, scale steps, measures --
3 apply equally to this exhibit, so we don't
4 have to do the whole exercise again, is my
5 question?

6 A. I think so. I think they are --

7 Q. If you have any doubt, we have to
8 do it.

9 A. No.

10 Q. No? Are you sure?

11 A. Let's consider this done.

12 Q. Okay. For the record, all of the
13 handwritten changes that you made with respect
14 to Salani 9 illustrating the differences
15 between Don Diablo and Levitating apply with
16 equal force to your figures 6A and 6B on
17 Salani 10?

18 A. Yes.

19 Q. Thank you. Okay. We don't have to
20 do that, then.

21 So we have agreed that Don Diablo
22 is in a major key and Levitating is in a minor
23 key, correct?

24 A. Correct.

25 Q. Okay. And we've also agreed that

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1 B. SALANI
2 your red boxes are illustrating what you claim
3 in Levitating is similar to material in Don
4 Diablo that you've also identified in red
5 boxes?

6 A. Exactly.

7 Q. Okay.

8 (Salani Exhibit 11, Excerpt of
9 Figure 4 was marked for identification.)

10 BY MS. LEPERA:

11 Q. Salani 11, just tell me if this is
12 an accurate blown-up depiction of figure 4
13 from your report?

14 A. Yes.

15 Q. Yes, it is, okay.

16 And you indicate in your report
17 with respect to this that it's the third
18 repetition of the third musical motive.

19 Leaving aside whether it is or is
20 not a third repetition, this -- one, two,
21 three, four -- five-note descending pattern on
22 16 notes is what you have claimed to be at
23 issue, correct?

24 A. Yes.

25 Q. Okay. Now we've talked about the

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1 B. SALANI

2 scale -- excuse me -- the key signature of
3 B-minor.

4 Can you help me now and write out
5 on top of this transcription what the scale
6 steps are of B-minor?

7 A. Okay.

8 Q. Scale. Not writing out what these
9 are yet. We're going to do that next. But
10 just give me the seven notes of a B-minor
11 scale. Anywhere you can do it.

12 Write "B-minor scale" on top. And
13 then give me --

14 A. Which B-minor scale do you want?
15 The natural? The harmonic?

16 Q. The minor.

17 A. Well, there are three minors.

18 Q. Okay.

19 A. Natural, harmonic or melodic minor.
20 Which one do you want me to write? The three
21 of them?

22 Q. Yeah, let's write the three of
23 them.

24 A. Okay.

25 Q. Let's do that, just to cover the

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1 B. SALANI

2 bases.

3 A. Can I right the sharp --

4 Q. Which one is the most common?

5 A. It depends on the song.

6 Q. You don't think there's one that's
7 more prominent than another?

8 A. The three are used.

9 Q. Okay. So they're equal, in your
10 view?

11 MR. BROWN: Object to the form.

12 A. So the B-minor scale --

13 Q. Is that right? Just so I'm clear,
14 equally -- they're all three equally used?

15 MR. BROWN: Object to the form.

16 A. Well, in theory, yes.

17 Q. No, no, no. In practice.

18 A. In practice, it depends on the
19 composer. Sometimes --

20 Q. How about popular music?

21 A. How about popular music? That's a
22 good question.

23 It depends on the composer. In
24 popular music you can -- you can also write
25 B-minor scale in natural mode or also in

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1 B. SALANI

2 harmonic or melodic mode. It depends on the
3 composer. Okay?

4 Q. Have you done a survey of pop music
5 to see which one is more common?

6 A. No, I haven't.

7 Q. Okay. Let's write them all. All
8 three of them.

9 A. So we have to say that we have two
10 sharps, okay? So F-sharp and C-sharp. Okay?
11 Key signature. Okay.

12 (The witness complied.)

13 BY MS. LEPERA:

14 Q. So let me ask you this, before I
15 get this copied.

16 You're using B-minor as the
17 relative minor for D-major, correct?

18 A. Yes.

19 Q. So which one of these would apply?

20 MR. BROWN: Object to the form.

21 Q. It would be the first one, wouldn't
22 it?

23 A. Yes. The A natural.

24 MS. LEPERA: Okay. I'll make a
25 copy of it.

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1 B. SALANI

2 (Pause in proceedings.)

3 MS. LEPERA: Let's now mark as
4 11A the handwritten one.

5 (Salani Exhibit 11A, Handwritten
6 annotations of Exhibit 11 was marked for
7 identification.)

8 Q. Okay. Ms. Salani, so I think we
9 can agree, can we not, that since you're using
10 a comparative analysis of D-major with two
11 sharps and B-minor with the same two sharps
12 then we should be looking at the natural minor
13 scale, correct?

14 A. Correct.

15 Q. Okay. So here now, if you wouldn't
16 mind, identify for me on 11A, what we've
17 marked as 11A, below the transcription of
18 Levitating in the one and a half measure here,
19 the actual B-minor -- the natural B-minor
20 scale steps that apply.

21 (The witness complied.)

22 A. Do you want me also outside or
23 inside? Well, I did the whole thing.

24 Q. No, I want you to actually write
25 out what those scale steps are on here. So

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1 B. SALANI

2 I'll just -- let's do it together.

3 A. Okay.

4 Q. The first note is obviously
5 F-sharp. That's the 5, correct?

6 A. Yes.

7 Q. So let's write F-sharp, and that's
8 fifth step.

9 A. Okay. Fifth.

10 Q. And then let's go E.

11 A. E, natural --

12 Q. Fourth step.

13 D? Correct?

14 A. D is the third -- yeah. D is the
15 third step.

16 Q. C?

17 A. Sharp is the second.

18 Q. Correct, C-sharp second. Right?

19 And then the last is the root of
20 the scale, the 1, correct?

21 A. Yes.

22 Q. 5, 4, 3, 2, 1, correct?

23 A. Correct.

24 Q. So these notes represent, do they
25 not, five notes of a seven-note B-minor scale?

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1 B. SALANI

2 A. They do.

3 Q. And the fifth is the dominant --

4 A. Yes.

5 Q. -- of the scale, and the 1 is the
6 tonic.

7 And isn't it correct that there's a
8 tendency to resolve to a 1 frequently when
9 you're writing music?

10 A. Yes.

11 Q. Because that is the root?

12 A. Yes.

13 Q. Okay. And there's a repeat of each
14 of these notes, these five notes, but they're
15 still the same notes, correct? They're still
16 5, 4, 3, 2, 1, is it not?

17 A. It is.

18 Q. It doesn't change it from a scale,
19 descending scale, does it?

20 A. It doesn't change from the
21 descending scale. But it becomes a motive
22 whenever you repeat it. Instead of doing only
23 once and that's it and it disappears from the
24 song, but if it's reiterated for more than
25 once, it becomes a --

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1 B. SALANI

2 Q. A repeat?

3 A. -- a repeat. A reiterated motive.

4 Q. But it's still the same music,
5 correct?

6 A. It's still the same music.

7 Q. It's still a descending scale?

8 A. It's still a descending scale. But
9 one thing. One is the function, and the other
10 is only if you keep that descending scale and
11 you analyze it as a little block. Okay?

12 So there is a difference between --
13 in musicological studies between something
14 that can seem, like, very, let's say --

15 Q. Basic?

16 A. -- basic. When you give it a
17 meaning, it can be much more meaningful.

18 Q. A meaning?

19 A. A meaning, yes.

20 Q. Okay. So let me see if I
21 understand.

22 Is meaning one of the elements of
23 music that you identified in the beginning
24 when you talked about melody, rhythm, harmony,
25 structure and instrumentation? Did meaning

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1 B. SALANI

2 come in there, too? When you analyzed the
3 composition?

4 A. After those things, I analyzed the
5 function. And in the function I realized the
6 identity and realized the meaning.

7 When I talk about "incipit," that's
8 what I mean by the function.

9 Q. I understand. We went over that,
10 where you erroneously identified that
11 Levitating is 10 measures and erroneously
12 identified it as having the same introduction,
13 when the Wiggles and the Don Diablo
14 introductions have vocals in much longer
15 measures, correct?

16 MR. BROWN: Object to the form.

17 A. No, you didn't understand me.

18 Q. Okay. We can leave the record as
19 it is. Because you didn't identify the
20 difference, did you?

21 A. At that time we were talking about
22 the introduction, while I was talking about
23 the verses. In the verses I was talking about
24 the function of the incipit. Okay?

25 And yes, at the time we were

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1 B. SALANI
2 talking about the introduction. But I'm
3 talking about the function now, and I'm
4 talking about the function referred to --
5 referred to this particular motive.

6 Q. Okay. Yeah, it starts in the
7 verse?

8 A. It starts in the verse. I said
9 that.

10 Q. There are verses of songs, are
11 there not?

12 A. Yes.

13 Q. Is there a monopoly on having a
14 verse in a song?

15 A. Well, it's part of the structure.

16 MR. BROWN: Object to the form.

17 Q. Is it a comparison just because two
18 songs start something in a verse?

19 A. I started that comparison because
20 those were the exact motives that Don Diablo
21 and Levitating had. So in the verse. Okay?

22 Q. A verse is not what starts any of
23 the songs, correct?

24 A. Correct.

25 Q. Okay. Thank you. But that's not

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1 B. SALANI

2 what you said in your report.

3 "Positioning at the very start of
4 both pieces."

5 That's inaccurate?

6 A. Wait a second --

7 Q. Yeah, sure.

8 A. Can you tell me exactly where that
9 is?

10 Q. I am reading your report.

11 A. Yes, I know. But where?

12 Q. Which we've already stricken out
13 because it's a legal conclusion.

14 MR. BROWN: Objection.

15 Q. But nonetheless you say it's
16 positioning at the very start of both pieces
17 makes the copying substantial.

18 Do you see that?

19 That's not true? It doesn't start
20 at the very start of both pieces? It's a
21 verse, correct?

22 A. It's a verse. Correct. It's a
23 verse. Maybe I said it differently from what
24 I intended.

25 Q. Okay, fine.

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1 B. SALANI

2 A. Sometimes I have to really be
3 careful on what I write.

4 Q. Because that's wrong, correct?

5 A. Because -- yeah. That doesn't
6 finish the sentence saying that the function
7 is what really I was intended to focus on.
8 The meaning of that -- the importance of the
9 reiteration of those -- of these melody -- of
10 these motive --

11 Q. Scale?

12 A. Of this motive.

13 MR. BROWN: Objection.

14 Q. Of this scale, correct?

15 A. It's made with a scale, but it's
16 not a scale like B, A -- like coming down a
17 scale normally. It's like a reiteration of
18 four 16th notes that go down by step.

19 Q. Right.

20 MR. BROWN: Counsel, I want to just
21 place an objection. There's a couple of
22 times in the last round of questioning,
23 while she was mid-sentence, you
24 interrupted her with words. If I could
25 appreciate it if she could finish her

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1 B. SALANI

2 answer.

3 MS. LEPERA: She's interrupting me,
4 too.

5 MR. BROWN: Well, then you --

6 MS. LEPERA: Let's both try to get
7 through it. It's getting late in the
8 day.

9 MR. BROWN: It's fair for both
10 sides to wait until each other concludes
11 so we have --

12 MS. LEPERA: Totally agree.

13 MR. BROWN: -- a clean record. I
14 appreciate it. Thank you.

15 Q. Functioning -- where did you take a
16 class in music theory where they added an
17 element to the analysis of musical
18 compositions in a dissection the phrase
19 "function"?

20 A. Well, that was a part of
21 musicology. Not really theory. Musicology.

22 Q. Again, we talked about musicology a
23 lot today. All right? And we're talking
24 about an analysis of compositions through
25 music theory. Correct?

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1 B. SALANI

2 A. Correct.

3 Q. And what course did you take where
4 there was an element added to an analysis of
5 dissecting musical compositions where the word
6 "function" was part of the course structure?

7 A. I took musicological courses at
8 FAU, as well as in Italy, in the Puccini
9 Conservatory.

10 Q. Name them. Name the teacher, name
11 the book, and show me where I can find the
12 word "function" as an element along with
13 melody, rhythm, structure, harmony, and all
14 the things you identified earlier today.

15 MR. BROWN: Object to the form.

16 A. I -- okay. I can tell you exactly
17 one of the readings that I did, it's not a
18 course, where you are --

19 Q. I didn't ask for readings. I asked
20 for a course. I don't want any answer other
21 than a course.

22 A. Well, I took different courses. I
23 can tell you all the courses that I did in
24 musicology. But you have to understand that
25 we have -- the title of the course is -- maybe

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1 B. SALANI

2 it's not analysis of that particular thing
3 where they talk about the function. The
4 course --

5 Q. Define "function."

6 A. The function?

7 Q. Yes. Define it.

8 A. Okay. Function in musicological
9 analysis is the meaning of what we are
10 composing.

11 For example, I talk about
12 Beethoven's 5th Symphony. Okay? What is
13 the --

14 Q. Can I just get a definition of what
15 the musicological term that you claim is a
16 term is, based on your studies? What is the
17 definition?

18 We have -- okay, you know what a
19 definition of melody is, right?

20 A. It is the role of music in a
21 society and how this society perceives this
22 melody according to -- to what they are
23 listening to. Okay?

24 So if you listen to a melody that's
25 a lullaby, then you understand that that's

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1 B. SALANI

2 made for kids to fall asleep.

3 If you listen -- that's what
4 function is in music. Function is something
5 that goes beyond what's written, but it's been
6 written with a particular meaning.

7 For example, Beethoven's Fifth
8 Symphony started with four notes. Okay? What
9 was the meaning of those four notes? The
10 special -- the beginning of the fourth -- the
11 Fifth Symphony was the fate that was knocking
12 at the door. That function -- that is
13 function. So what is the meaning of some of
14 the compositions. And also the identity.
15 Okay?

16 Q. You can go on and on and on. I
17 just asked you to give me -- not examples -- a
18 musicological definition of function.

19 A. I just told you. It's the role of
20 music --

21 Q. You said the meaning.

22 A. The role of music --

23 Q. In society?

24 A. -- in a society.

25 Q. Okay. Thank you. That's your

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1 B. SALANI

2 definition?

3 A. Yeah. That's my perspective.

4 Q. No, no, no. I didn't ask you your
5 perspective. I asked --

6 A. It's my definition.

7 Q. -- for a scientific definition of
8 "function" as a musicological concept that you
9 allegedly learned.

10 A. Yes.

11 Q. And your definition of -- a
12 musicological definition of "function" is how
13 music is heard in society?

14 A. The purpose -- the purpose of music
15 in society.

16 Q. Okay. Thank you. We can leave it
17 at that.

18 Now let's talk about the scale.

19 When you teach your students to
20 play scales, did you ever ask them to repeat
21 the notes of the scale?

22 A. Yes, of course.

23 Q. And do you ask them to repeat it on
24 maybe 8th notes?

25 A. Yes.

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1 B. SALANI

2 Q. Did you ask them to repeat it on
3 16th notes?

4 A. I do.

5 Q. Okay. And then do you also have
6 them do it on different types of scales, where
7 there would be, for example, if you're a baby
8 beginner, you start on a C-major scale?

9 A. Yes.

10 (Salani Exhibit 12, Depiction of
11 musical scale was marked for
12 identification.)

13 BY MS. LEPERA:

14 Q. So it's a rudimentary process,
15 going up and down a scale, when you're a
16 beginning pianist, isn't it?

17 A. Yes. Also when you're advanced,
18 because we always have to do scales in order
19 to keep our fingers moving and to -- you know,
20 technique means also exercise and keep, you
21 know, the technique in your hands.

22 Q. And so you are familiar with
23 Hanon: The Virtuoso Pianist?

24 A. Oh, of course.

25 Q. Of course you used to practice with

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1 B. SALANI

2 him, right? I mean from his books.

3 A. From his books.

4 Q. For dexterity?

5 A. Yes.

6 Q. And how many of those exercises are
7 scales on 16th notes?

8 A. There is an exercise that has the
9 repeating 16th notes: tock-ah tock-ah,
10 tock-ah tock-ah, tock-ah.

11 Q. Right. And so certainly he didn't
12 steal that from anybody, did he?

13 MR. BROWN: Object to the form.

14 A. Well --

15 Q. You don't have to answer that
16 question. Let's go over this.

17 Let me ask you, on exhibit 12 --

18 A. 12.

19 Q. Yeah. If you were to transcribe
20 the material in exhibit 11A and 11 in this
21 descending B-minor scale of five to one in C,
22 wouldn't it be the notes I have highlighted
23 here on a keyboard?

24 A. This is A-minor (indicating).

25 Q. Well, no, those are just notes.

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1 B. SALANI

2 That's not anything right now.

3 A. But the yellow.

4 Q. Right. But I am talking about the
5 five notes.

6 A. The five notes.

7 Q. Before you characterize them in any
8 key. Okay?

9 If you were to transcribe Don
10 Diablo, which is in the major key, into C --

11 A. Okay.

12 Q. -- and Levitating into A-minor --

13 A. Yes.

14 Q. -- these would be the five notes at
15 issue, correct?

16 Can you do that?

17 A. Yes.

18 Q. So these are the five notes that
19 are reflective of the five notes -- 5, 4, 3,
20 2, 1 -- if you were doing it in the minor key
21 in Levitating in exhibit 11A, correct?

22 So if we were to take A-minor,
23 write A-minor over in the key section, and
24 C-major above it, you would see in Levitating
25 you would have the same sequence going down

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1 B. SALANI

2 from A to E-minor, right?

3 A. Mm-hmm.

4 Q. Right? 5, 4, 3, 2, 1. No?

5 A. Mm-hmm.

6 Q. And above that you would have
7 different scale steps for C-major, but you
8 would literally, if you were to equate the
9 same, you would have 3, 2, 1. Right? 6, 7.

10 Excuse me. 7, 6. Right?

11 A. Yes. Correct.

12 Q. And this transcription, if you were
13 to do it this way in C-major and A-minor,
14 reflects playing five notes on five white keys
15 on the piano, correct?

16 A. In C-major and A-minor they do.

17 Q. Right. So you would be literally
18 hitting those five white keys, each one four
19 times on 16th notes, correct?

20 A. Correct.

21 Q. And how complicated is that?

22 A. Well, I usually teach that when
23 you're fourth, probably fifth level already,
24 when they start to have already a technique
25 that, you know, can be apt to do the fast --

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1 B. SALANI

2 Q. You're talking about 16th notes
3 now?

4 A. Yes, 16th notes.

5 Q. But that's playing them, right?

6 A. Playing them.

7 Q. I am not talking about piano
8 playing. I am asking you how complicated is
9 it to design a sequence of five notes on a
10 scale such as this with five white keys.

11 MR. BROWN: Object to the form.

12 Q. How complicated is that?

13 MR. BROWN: Object to the form.

14 A. It's not that complicated.

15 Q. Right.

16 A. But it's complicated then to
17 perform it.

18 Q. Okay. Fair enough.

19 (Salani Exhibit 13, Excerpt from
20 The Virtuoso Pianist, C.L. Hanon, was
21 marked for identification.)

22 BY MS. LEPERA:

23 Q. So this is 13. This is an excerpt
24 of certain pages from The Virtuoso Pianist,
25 C.L. Hanon, I think you pronounce it, since he

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1 B. SALANI

2 was French?

3 A. Mm-hmm.

4 Q. Original copyright, 1900.

5 So he wrote these things a long
6 time ago, correct?

7 A. Correct.

8 Q. We're looking at page 78.

9 Do you see this exercise that he's
10 got on 16th notes, repeated 16th notes in 4/4
11 time?

12 A. I do.

13 Q. Okay. So clearly can't monopolize
14 playing four 16th notes, four iterations of
15 16th notes like this, correct?

16 MR. BROWN: Object to the form.

17 A. There are also other authors that
18 use these 16th notes --

19 Q. Okay.

20 A. -- as -- for exercises in previous
21 art. Yes, there are.

22 Q. Anybody can use it, correct?

23 MR. BROWN: Object to the form.

24 A. Exactly -- well, I think that, yes.
25 Because in particularly when you are trying to

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1 B. SALANI

2 develop a technique for pianists, you have to
3 find exercises that develops the technique.
4 And this is one of those exercises that are
5 very helpful.

6 Q. He's selling this book, correct?
7 Or some publisher's selling it? Schirmer,
8 correct?

9 A. Schirmer.

10 Q. Okay. They can do this, correct?

11 A. All my students have to go through
12 it.

13 Q. Right. Okay. So he has no problem
14 selling a book with these exercises in it,
15 correct?

16 A. Correct.

17 Q. And if you look at the next page,
18 79, we have again a pattern of 16th notes.
19 4/4 time, C-major, correct, going up the
20 scale, do we not?

21 A. We do.

22 Q. And scales can go one of two ways,
23 right?

24 A. Up or down.

25 Q. That's it, correct?

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1 B. SALANI

2 A. Correct.

3 Q. Okay.

4 MS. LEPERA: I am going to go over
5 my outline and see how much more I have
6 and consolidate and hopefully get you
7 out of here fast.

8 THE WITNESS: Can I add something?

9 MR. BROWN: If you want to -- did
10 you say ask or add?

11 THE WITNESS: Add, add.

12 Q. Is it an answer to the question?

13 A. No. It's something that adds to
14 the question.

15 Q. No.

16 A. You don't want to hear it?

17 Q. No. I don't want to hear it. The
18 question was asked and answered.

19 THE COURT REPORTER: Okay, we'll go
20 off?

21 MS. LEPERA: Yes.

22 THE VIDEOGRAPHER: We're going off
23 the record. The time is 3:15 p.m.

24 (Recess taken.)

25 THE VIDEOGRAPHER: We are back on

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1 B. SALANI

2 the record. The time is 3:38 p.m. This
3 is the beginning of the media labeled
4 number 5.

5 MS. LEPERA: Okay. At this point I
6 want to thank you. We have no further
7 questions. We're letting you go.

8 I have my email request on the
9 record. If you need me to follow up
10 with a letter -- you said you would take
11 it under advisement, obviously. We'll
12 wait to hear on that. Subject to that,
13 we're closed.

14 MR. BROWN: Thank you, Counsel.

15 THE WITNESS: Thank you.

16 (Continued on following page.)
17
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1 B. SALANI

2 THE VIDEOGRAPHER: We are now going
3 off the record. The time is 3:38 p.m.
4 This is the end of the media labeled
5 number 5, concluding this video-recorded
6 deposition.

7 ---

8 (Time noted: 3:38 p.m. EST)

9
10 _____
11 BARBARA SALANI
12

13 Sworn and subscribed to before
14 me this _____day
15 of _____, 2024,
16 in the jurisdiction aforesaid.
17

18 _____
19 NOTARY PUBLIC
20
21
22
23
24
25

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C E R T I F I C A T E

STATE OF NEW YORK)

COUNTY OF NEW YORK)

I, FRANK J. BAS, a Certified
Shorthand Reporter and Notary Public within
and for the State of New York, do hereby
certify:

That the witness whose testimony is
hereinbefore set forth, was duly sworn by me
and that such testimony given by the witness
was taken down stenographically by me and then
transcribed.

I further certify that I am not
related by blood or marriage to any of the
parties in this matter and that I am in no way
interested in the outcome of this matter.

That any copy of this transcript
obtained from a source other than the court
reporting firm, including from co-counsel, is
uncertified and may not be used at trial.

IN WITNESS WHEREOF, I have hereunto
set my hand this 22nd day of January, 2024.

Frank Bas

FRANK J. BAS, RPR, CRR

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DEPOSITION ERRATA SHEET

Assignment No. J10764534

Case Caption: Larball, et al., vs. Dua Lipa, et al.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my deposition taken in the above-captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the _____ day of _____
20____.

BARBARA SALANI

Subscribed and sworn to on the ____ day of _____
_____ 20 ____ before me.

Notary Public, in and for the State of _____.

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